

Braucht mein Teddybaer auch Visum: The Implicit Cultural Demands of the German Nationality Act and the Heritage of Ethnocultural Ideology in German Immigration Policy

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Braucht mein Teddybär auch Visum?

The Implicit Cultural Demands of the German Nationality Act and the Heritage of
Ethnocultural Ideology in German Immigration Policy

by

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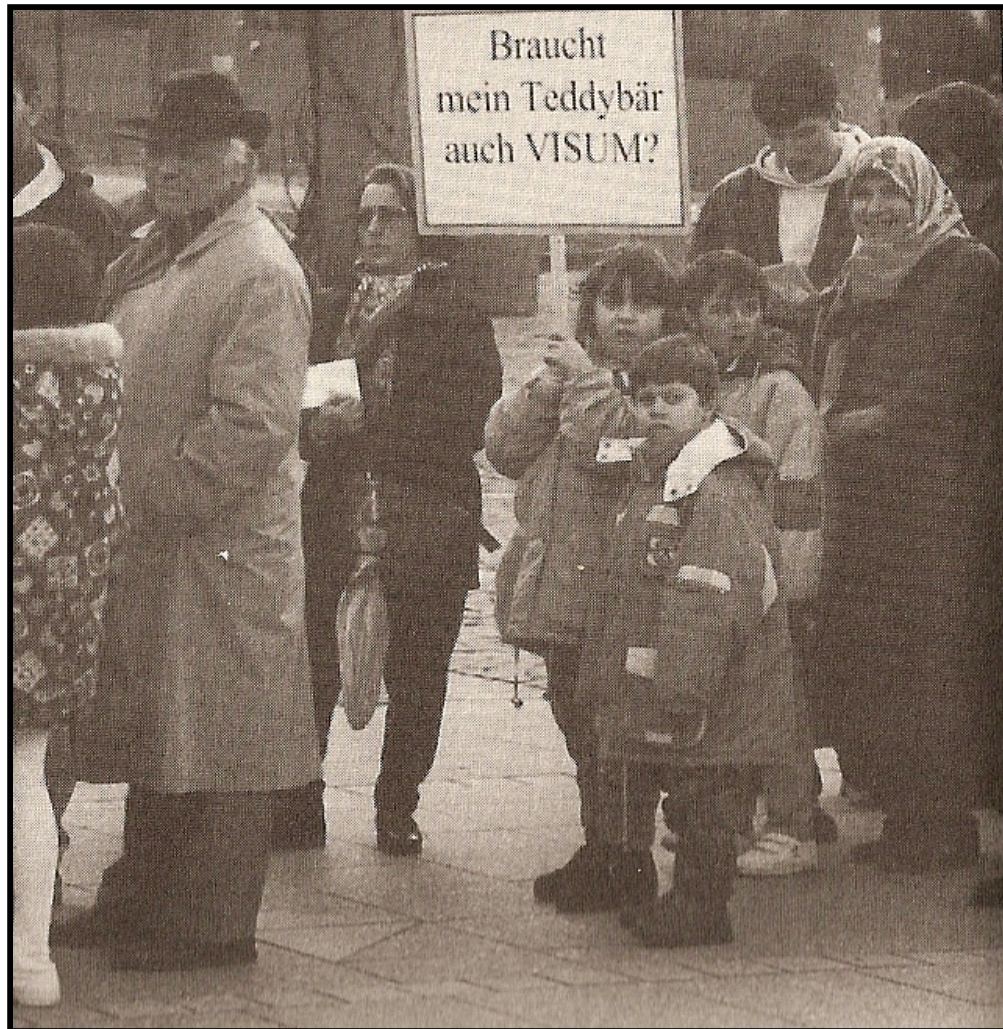
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Children and parents in Frankfurt am Main, February 1997, protesting a proposed new visa law for children born of foreign parents on German soil. The sign reads, "Does my teddy bear also need a visa?" *Photo by Brett Klopp*

Abstract

In the context of western liberal democracies, both the German state and the German nation have undergone a unique evolutionary process during the twentieth century. Stemming from this anomalous development, citizenship in Germany represents not only membership in the German polity but also membership in the German cultural community. Naturalization standards, in contrast to every major immigrant-receiving state, were thus traditionally based on descent-based (as opposed to territorial-based) standards. Consequentially, the large population of foreign guestworkers that entered Germany through post-War labor recruitment programs has been systematically excluded from formal state membership. This exclusion, by producing a disempowered and disillusioned class of pseudo-citizens, has produced alarming tensions between ethnic German citizens and foreign resident minorities. The Nationality Act, enacted in 2000, attempted to address this friction by implementing a naturalization regime with a partial *jus soli* element. This study thus aims to determine whether the Nationality Act of 2000, by implementing paradigmatic reforms, has proven capable of facilitating the desired process of structural integration.

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Chapter 1: Overview of the Paper

1.1- Introduction

In the spring of 2006 a group of teachers at the Rütli School in Neu Kölln wrote an open letter to a Berlin newspaper complaining of uncontrollable violence among the school's pupils. The violence had reached such heights that teachers, feeling physically threatened, refused to enter their classrooms without the protection of mobile phones. The shocking nature of the incident understandably appalled public sentiments in Germany. But, with 83% of the Rütli School student-body tracing its background to non-German origins, the story not only shocked the public but it also produced a telling range of polarizing reactions. Responses to the incident ranged from demands for metal-detectors in the school to policies that would punish immigrant families that failed to learn German. Despite the various solutions proffered, most pundits agreed, at least to some extent, on the routes of the problem. With an alarming and undeniable gap between the socioeconomic position of children from non-German and German backgrounds, the children of immigrant families are instilled, from a very early age, with the "self-consciousness of being losers." Commentators observe that this dynamic, specifically the relationship between socioeconomic disadvantage and cultural and political marginalization, is distressingly similar to the dynamic that sparked the suburban riots that plagued France in November of 2005. With these nascent indicators of full-blown rioting ominously looming overhead, policymakers now face the unenviable imperative

of attempting to address the latent sources of foreign resident alienation and disillusionment.¹

Ever since the reunification of Germany in 1990, legislative reforms have attempted to address the issue of immigrant integration. As the Rütli School anecdote evidences, however, these attempts have ostensibly failed to achieve their intended objective. But, do such incidents necessarily mean that these reforms have indeed failed? Or, does Rütli simply indicate that integration is a gradual process and not a rapid transition? In fact, have the socioeconomic positions of immigrants and natives undergone a noticeable process of convergence during this period? Or, have these reforms simply proved unsuccessful at producing any significant change? Indeed, have these policies failed so incredibly that such tensions now threaten the very stability of the German polity? This study aims to address these questions by examining the impact of recent policy reforms, specifically the Nationality Act of 1999, on the cultural, economic and political positions of the foreign resident population relative to the native German community.

1.2- *Germany's Emergence as an Immigration State*

The integration of the foreign resident population has emerged as an important political issue due largely to the inflow of foreign laborers in the years immediately following the Second World War. Ever since this initial surge in immigration, the German economy has utterly relied on foreign labor. Beginning in 1955, Germany initiated a massive labor recruitment program to sustain the “economic miracle” that

¹ Marc Young, “Germany’s School of Hard Knocks,” *Der Spiegel*, April 05, 2006, <http://www.spiegel.de/international/0,1518,409876,00.html> (accessed November 3, 2006).

emerged in the early post-war years. This recruitment policy resulted in labor importation agreements with several countries, including Italy, Spain, Turkey, Morocco, Portugal, Tunisia and Yugoslavia. These labor recruitment agreements typically included some type of rotation principle that, in theory, mandated the replacement of veteran foreign laborers with fresh foreign recruits after an agreed-upon period of employment. For several reasons, however, these rotation systems were largely unimplemented, which, in turn, allowed many of the “temporary” guestworkers to remain in Germany unchallenged. As a result, when Germany effectively ended large-scale labor recruitment in reaction to the global recession of 1973, a sizable population of immigrants had been residing in the country for an extended period of time. After residing in Germany for many years, this population began bringing over their families and otherwise establishing themselves more permanently in the country.² The initial labor recruitment of the 1950s, although unintentionally, thus left an indelible demographic mark on an originally homogenous German country.

The transformative impact of this immigration on the German population is staggering. Whereas in 1950 only about 500,000 foreigners resided in the Federal Republic, by 2005 this population had increased dramatically to, by a conservative estimate, 7.3 million foreign residents (Table 1).³ Of this significant population, over 63% had been residing in the country for more than nine years, while less than 17% had been living in the country for less than four years (Table 2). This population is

² Federal Office for Migration and Refugees, *The Impact of Immigration on Germany's Society*, October, 2005: 45.

³ Federal Statistical Office of Germany, *Foreign Population 1980 to 2005*, <http://www.destatis.de/basis/e/b-evoe/bevoetab7.htm>, (accessed February 19, 2007).

overwhelmingly comprised of individuals of Turkish descent, approximately 26% of the total foreign population, with Italians, at barely 8%, representing the second largest national grouping. In a European context, the immigrant population in Germany, both as a concrete number and as a percentage, represents the largest such population on the continent, excluding the small principalities such as Luxembourg. Germany, in little more than half a century, has thus transformed from an ethnically-homogenous nation-state into a modern pluralist society.

1.3- *Ethnocultural Identification in Germany*

Unfortunately, however, a tradition of ethnocultural (ethnic and cultural) national identification has made this a difficult transition for Germany. The emergence of this ethnocultural identity derived primarily from the late development of the unified German state. With the German nation developing prior to the German state, it proved impossible to base citizenship on any institution connected with the state.⁴ The passage of the Imperial and State Citizenship Act of 1913 (Reichs- und Staatsangehörigkeitsgesetz) thus aimed at reconciling the inherent difficulty of defining a nation in the absence of a well-defined state territory. Pragmatically, the law represented an attempt to prevent the loss of citizenship for those migrating between various states of the German Empire. The internally inconsistent citizenship requirements prior to this laws passage were such that even a temporary departure from certain states would result in a forfeiture of citizenship status, yet, at the same time, entrance into another state would not necessarily provide a new form of membership. As a result, the Imperial and State Citizenship Act of 1913

⁴ Jost Halfmann, "Immigration and Citizenship in Germany: Contemporary Dilemmas," *Political Studies* XLV (1997): 267.

instituted a descent-based citizenship standard so as to ensure ethnic Germans would not be deprived of their citizenship status because of incongruent citizenship legislation between constituent states of the German Empire.⁵ Despite the ostensible obsolescence of this law, it remained in force, with very few amendments, until the Nationality Act assumed competency for naturalization standards on January 1, 2000.

The amazing resilience of the Imperial and State Citizenship Act of 1913, however, does not necessarily provide an indictment of German policy intentions. Rather, Germany, as arguably the most profoundly affected power of the Cold War, faced unique political challenges during this extended confrontation. Intent on providing residents of the German Democratic Republic (Deutsche Demokratische Republik, DDR) with an escape from Communism while simultaneously withholding recognition of the legitimacy of the East, the Federal Republic maintained the Citizenship Act of 1913 throughout the Cold War. By refusing to pass new citizenship standards, West Germany was able to justifiably claim that residents of East Germany still possessed rights to citizenship in the Federal Republic. The maintenance of the Act of 1913 thus represented more of response to geopolitical concerns than an assertion of exclusivist policy intentions.

Although such an exclusivist understanding of German identity did not necessarily produce or maintain the Citizenship Act of 1913, this legislation did eventually lead to the institutionalization of such citizenship norms. The legislative enshrinement of these ethnocultural norms, combined with the sheer durability of the law,

⁵ Amanda Klekowski von Koppenfels, "Politically Minded: The Case of *Aussiedler* as an Ideologically Defined Category," *Sozialwissenschaftlicher Fachinformationsdienst*, (2001): 3.

gradually transformed ethnocultural citizenship standards into the accepted determinant of German identity.

1.4- The Implications of an Ethnocultural Heritage

In addition to the issues that arise in most immigrant-receiving countries, such as job competition and natural cultural tensions, the ongoing debate in Germany thus has an added dimension. Unlike in most similar states, German citizenship law has evolved around an ethnocultural conception of national identity. This means that the German nation was, until quite recently, defined as a “community of descent,” characterized by a shared culture, language and history.⁶ Although the roots of this conception were entirely pragmatic, this ethnocultural notion would eventually become an accepted ideology of national identification. By maintaining a *jus sanguinis* (descent-based) requirement for naturalization, the Citizenship Law of 1913 effectively prohibited the integration of the foreign resident community in post-War Germany. Meanwhile, anti-immigration policymakers have successfully relied on this convenient ideological quirk to justify exclusivist policies.⁷ As a result, the ethnocultural tradition in Germany has produced excessively strict immigration and integration policies.

Although some analysts have declared the obsolescence of citizenship in a globalizing world governed by norms of universal human rights, it proves difficult to completely dismiss the importance of official inclusion into the nation-state. Without reasonable access to citizenship, the “visibility and sharpness” of the foreign immigrant

⁶ Ruud Koopmans, “German and its Immigrants: An Ambivalent Relationship,” *Journal of Ethnic and Migration Studies* 25 (1999): 630.

⁷ Silva Dörr and Thomas Faist, “Institutional Conditions for the Integration of Immigrants in Welfare States: A Comparison of the Literature on Germany, France, Great Britain, and the Netherlands,” *European Journal of Political Research* 31 (1997): 404.

community becomes dangerously obscured.⁸ As a result, by effectively removing the option of naturalization and thus largely masking the needs of the foreign resident population, ethnocultural norms have affected the marginalization of this community. Their continued exclusion from the German nation has thus transformed the immigrant population into a “vulnerable and stigmatized minority” group.⁹ As implied by such minority status, noticeable gaps appear when evaluating important measures of the socioeconomic status of the foreign resident community compared to the native German population (such as cultural, political and economic disparities). The below average educational and occupational attainment of the foreign resident community, for example, often prevents individuals with non-German backgrounds from overcoming the social marginalization imposed by their exclusion from the German national community.¹⁰

The inability or unwillingness to construct a comprehensive and effective integration policy has thus produced significant repercussions for the immigrant population. Essentially, this systematic withholding of citizenship has created a unique class of “resident foreigners” who possess permanent residency rights but lack any entitlement to citizenship. Barred from structural integration, the foreign resident population has remained in an isolated foreign enclave. In effect, these exclusionist policies have created an underclass of disadvantaged and often destitute native

⁸ Koopmans, “Germany and its Immigrants,” 631.

⁹ Christian Joppke, “How Immigration is Changing Citizenship: A Comparative View,” *Ethnic and Racial Studies* 22 (1999): 645.

¹⁰ Gert G. Wagner, Felix Büchel, John P. Haisken-DeNew and C. Katharina Spiess, “Education as a Keystone of Integration of Immigrants: Determinants of School Attainment of Immigration Children in West Germany,” in *Immigration, Citizenship, and the Welfare state in Germany and the United States*, London: JAI Press, 1998, 40.

foreigners.¹¹ Possessing formal rights of residence but lacking citizenship, these native foreigners have been methodically marginalized from German society.

Additionally, if current trends persist, higher fertility rates and decreasing emigration figures ensure the steady growth of the already significant foreign resident population. Meanwhile, extremely low fertility rates among ethnic Germans guarantees that this population will continue to decrease.¹² This perceived threat to the ethnic German nation only compounds both the tensions experienced by all immigrant-receiving states and the additional tensions produced by Germany's unique history of ethnocultural identification. With these tensions already resulting in unsettling outbreaks of xenophobic violence, the integration of the foreign resident population now represents an urgent priority in domestic German politics.¹³

1.5- Recent Policy Responses

The failures of previous integration policies can primarily be attributed to the heritage of ethnocultural identification in Germany. The seemingly progressive legislation introduced in 1990 and 1993, for example, proved entirely ineffectual precisely because it failed to challenge engrained ethnocultural assumptions.¹⁴ As a result, both the requirements for citizenship and the process of obtaining it remained prohibitive obstacles for prospective German citizens. The modification of the Nationality Act in 1999 by the Social Democratic Party of Germany (Sozialdemokratische Partei Deutschlands, SPD)/Alliance '90-Greens (Bündnis 90-Die

¹¹ Koopmans, "German and its Immigrants," 628.

¹² Federal Office for Migration and Refugees, "Impact of Immigration," 19.

¹³ Joppke, "How Immigration is Changing Citizenship," 637.

¹⁴ Federal Office for Migration and Refugees, "Impact of Immigration," 45.

Grünen) coalition government, however, offered a promising starting point for wider reform precisely because of its rejection of ethnocultural identity. By introducing a partial *jus soli* principle (citizenship based on territorial birth) to naturalization standards, Germany has taken a significant step towards reforming its immigration and integration policy. In addition, the passage of the Immigration Law in 2004, while not nearly as pragmatically consequential as the Nationality Act, represents an important indication of Germany's gradual acceptance of its *de facto* status as a country of immigration.¹⁵ Although Germany has recently come along way in terms of foreigner policy, there still remain many important challenges, specifically the integration of the historically marginalized foreign resident community.

Primarily because of Germany's ethnocultural tradition, the issue of integration has proven one of the most divisive questions for the major political parties in the ongoing immigration debate. For the former SPD/ Alliance '90-Greens coalition government, naturalization served as an important tool in the gradual process of integration. Shortly after assuming control of the government in 1998, the SPD, as the senior coalition partner, promised a new citizenship and immigration law. Indeed, the reform of the Nationality Act, which assumed competency in 2000, represented one of the first significant actions taken by the new government. This prioritization of the immigration issue derived from the coalition's assertion that Germany was a country of immigration and that ignoring this fact was potentially dangerous. With Germany thus established as a country of immigration, the coalition's conception of nationhood

¹⁵ Ibid., 46.

disregarded the traditional markers of German nationality (mutual culture, common religion, shared language, etc.). Instead, the coalition advocated a civic determination of citizenship that rested in the foreign resident's acknowledgment of the constitutional order. From this perspective, naturalization, then, does not represent the culmination of the integration process, as the immigrant no longer needs to conform to various cultural requirements before acquiring citizenship. Instead, the coalition envisioned naturalization as means of facilitating integration by formally including the foreign resident in the constitutional order.¹⁶

Contrary to this perspective, the opposition parties, primarily the Christian Democratic Union (Christlich Demokratische Union Deutschlands, CDU) and the Christian Social Union (Christlich-Soziale Union, CSU), viewed naturalization as the end-result in a long integration process.¹⁷ As late as 1997, the CDU asserted that "Germany is not an immigration country and does not want to become one."¹⁸ In addition, as late as 2000, the CDU issued a declaration that conceptualized German nationality as an identity defined by a common history, culture and social and constitutional order. For the CDU and its sister-party, the CSU, integration is thus "to feel connected to the new country's social, economic, religious, cultural and legal order while keeping one's own identity."¹⁹ By failing to assign the native population any responsibility, this definition essentially lays the entire burden of integration on the shoulders of the foreign resident community. From this perspective, naturalization, as

¹⁶ Yasemin Yüce, "The Challenge of Becoming an Immigration Country" masters thesis presented to the Graduate School of Social Science of the Middle East Technical University (2003): 95.

¹⁷ Ibid., 98.

¹⁸ Ibid., 98.

¹⁹ Ibid., 100.

acceptance into the German nation, can only occur after an individual has successfully conformed his or her behavior to the standards of German society. In stark contrast to the SPD/Greens vision, naturalization thus represents the apex of integration that is only conferred once an individual has adopted the necessary social and cultural attributes of the German nation.

The current coalition government, a partnership between the CDU, CSU and SPD, thus contains various discordant views on the immigration issue. In spite of this obstacle, however, the coalition has successfully constructed an immigration platform that accepts the naturalization framework established by the Nationality Act of 2000, but also calls for long process of integration courses to foster the inclusion of foreigners into German society. This coalition sees naturalization as essential to integration but has been content to avoid the polarizing issue of the exact role of naturalization in the integration process.²⁰ Instead, they have fashioned a compromise that recognizes both the importance of naturalization for integration and the need for integration courses to help facilitate this process.

1.6- Research Question

This thesis thus endeavors to examine the impact of recent legislative liberalizations, specifically the implementation of the Nationality Act on January 1, 2000, on the structural integration of foreign residents within the Federal Republic of Germany. The continued inability to integrate foreign residents into German society makes the new legislation, designed to facilitate such a process, an important step towards ensuring

²⁰ Press and Information Office of the Federal Government of Germany, *Coalition Agreement between the CDU, CSU and SPD*, November, 2005, 114.

domestic solidarity and stability; however, engrained suspicions and biases on both sides threaten the effectuality of such measures. Whether these reforms can indeed affect integration in spite of Germany's history of ethnoculturalism is thus a central question for contemporary policymakers. This examination first examines the development of immigration and integration policy in Germany during the period stretching from the end of World War II to the passage of the Nationality Act in 1999. This context then serves as a framework that allows for the accurate assessment of possible correlations between liberalized naturalization standards and potential convergences in the socioeconomic status of the majority and minority populations in post-2000 Germany. By focusing on these relationships this paper, in short, aims to discover what impact the new naturalization policies have had on the structural integration of foreign residents in Germany.

Proponents of the new Nationality Act claim that it offers a significant opportunity for the facilitation of the immigrant integration process. By relaxing naturalization standards, it has provided, in theory at least, a significant percentage of this population with greater access to the naturalization process. Indeed, a cursory examination of naturalization statistics seems to support this assumption. After the enactment of the Nationality Act in 2000, naturalization figures reached an all-time high with 186,700 foreign residents receiving German citizenship. The naturalization rates of 178,100 in 2001, 154,000 in 2002 and 140,700 in 2003, compared to the 1997-1999 average of just under 111,000, unquestionably indicate that the Nationality Act has led to

a dramatic increase in naturalizations among the foreign resident community.²¹ The acquisition of citizenship, according to this rationale, grants the immigrant population equal standing with the native population by conferring, not only identical civil, political and cultural rights, but also a psychological sense of belonging to the German nation. Advocates of the new Nationality Act postulate that this leveling of the playing field will induce a process of integration by removing the tensions that inherently arise out of an unequal distribution of rights. As a result, the modification of the Nationality Act has the potential to alleviate and perhaps eventually even resolve the tensions that characterize the relations between German citizens and their foreign resident counterparts.

This optimistic outlook, however, has been substantially undermined by many critics. It is indeed unquestionable that the naturalization process will grant any eligible foreign resident the same rights as any other German citizen. But, does this equal distribution of rights necessarily facilitate the integration process? What prevents the foreign resident community from realizing these rights yet failing to capitalize on the opportunities they afford or from simply choosing not to naturalize in the first place? Although undoubtedly an important element in the integration process, it proves dangerous to equate naturalization with integration. Additionally, naturalization rates, after the initial upsurge in 2001, 2002 and 2003, have decreased to the levels commensurate with pre-reform figures, leading many policymakers to question the effectiveness of the Nationality Act in producing high and sustained levels of

²¹ Federal Statistical Office of Germany, "Fewer Naturalizations in 2003," <http://www.destatis.de/presse/englisch/pm2004/p2340025.htm> (accessed November 6, 2006).

naturalization.²² By attempting to observe indicators of the eligibility of this population and their utilization of the rights accorded by citizenship it is possible to more accurately ascertain the progress of integration in post-2000 Germany. The research question that drives this examination thus focuses on the impact of relaxed naturalization standards on the position of immigrants in the cultural, political and economic subsystems of German society. If these legislative reforms do indeed facilitate their desired objective, then this process of structural integration should be visible in the convergence of native and foreigner positions in these societal sectors.

1.7- Research Design

In order to measure the progress of structural integration, this examination will rely on various indicators of the position of natives and foreigners in the economic, cultural and political subsystems of German society. This study will begin by examining the historical development of immigration and integration policy in Germany to provide a context for the assessment of the modern reforms to the Nationality Act. The study will then observe indicators of the eligibility of the foreign resident population to determine the feasibility of a widespread process of naturalization. According to the logic of the drafters of the legislation, there should appear a spike in the naturalization rates among this community as the relaxed policies make citizenship more easily attainable. By producing this increase in naturalization rates, the legislation is thus intended to facilitate a pervasive process of integration. In order to assess the accuracy of these expectations, this study will examine the degree to which increased naturalization rates have resulted in

²² Federal Statistical Office of Germany, "Naturalizations Continue to Decrease in 2005," July 20, 2006, <http://www.destatis.de/presse/englisch/pm2006/p2950025.htm> (accessed September 20, 2006).

structural integration by examining variations in the cultural, political and economic positions of natives and foreigners in post-2000 Germany.

Structural integration represents a composite typology that is composed of a cultural, political and economic element, which attempts to incorporate overlapping theoretical classifications of integration. By encompassing “rights and power, status and prestige, [and] access to material and immaterial goods,” structural integration covers many of the central tenets of various theories of integration.²³ It thus provides this examination with a comprehensive conceptualization that allows for an accurate assessment of the degree of integration of the foreign resident community. In order to measure structural integration, it will be deconstructed into its three composite elements, specifically, the position of immigrants in the economic, cultural and political subsystems of society. Although many academic treatments agree with this conceptualization of integration, more traditional notions of integration reject this approach. For those that follow the work of T.H. Marshall, for example, integration is simply the attainment of social, political and civil rights.²⁴ From this perspective, naturalization, which, by definition, confers social, political and civil rights, represents the apex of integration. Although this philosophy still has its supporters, the present study will instead rely on post-Marshallian logic. From a post-Marshallian perspective, this conceptualization of structural integration provides a competent tool for assessing the actual degree of integration of the foreign resident community.

²³ David May, “Theories of Integration Revisited: Towards an Interactive Model of Integration Strategies,” paper presented at the 6th ESA Conference (Murcia, Spain), 6.

²⁴ T.H. Marshall and Tom Bottomore, *Citizenship and Social Class*, (Concord, MA: Pluto Press, 1992), 18.

This study will begin by providing a detailed examination of the development of German immigration and integration policy over the last half century. An evaluation of these policies establishes a qualitative context for the assessment of contemporary reforms to immigration and integration law. Complimenting this qualitative information, an analysis of empirical data then allows for the development of a quantitative context, which makes possible a further analysis of the impact of the new Nationality Act on the integration of the foreign resident population. This quantitative examination begins by looking at the cultural position of immigrants relative to native Germans both in terms of their eligibility for naturalization and the possible impact of naturalization on their cultural orientation. These indicators are inherently subjective and include, among others, the degree an individual feels German, the extent to which an individual feels connected to the country, and the tendency of the individual to speak German. Again, the responses of the foreign resident community will be assessed in terms of eligibility for naturalization (when applicable) and convergence with the cultural positions of native Germans. This examination will then consider the political position of the foreign resident community by observing various relevant indicators, including, but not limited to, voting rate, participation in local political initiatives, and interest in German politics to determine this population's eligibility (again, when applicable) and the impact of the Nationality Act on their political orientation. Lastly, the economic position of foreign residents in German society provides the final indicator of structural integration. By focusing on the variation of certain economic indicators, such as household income, dependence on social assistance programs, and enrollment in various educational and

training initiatives it becomes possible to assess both the eligibility of the foreign resident population for naturalization and the impact of this statute on this population's economic position. If indeed the reforms are catalyzing a process of structural integration, the economic position of foreign residents in the years after the enactment of the Nationality Act in 2000, as well as their cultural and political positions, should gradually approach the economic, cultural and political positions of their native German counterparts.

In each of these subsystems of society a convergence of the positions of foreigners and natives will indicate a process of structural integration; however, if the positions prove static or divergent then it will be difficult to conclude that the legislative reforms have produced the intended end-result. Similarly, if these indicators suggest widespread ineligibility among the foreign resident population, the Nationality Act will inevitably prove incapable of facilitating the desired process of structural integration. Many of these indicators are drawn from the German Socio-Economic Panel's (GSOEP) annual longitudinal study of a representative segment of German society.²⁵ In addition, other data are drawn from various International Social Survey Program (ISSP) modules as well as a variety of other sources.²⁶ An analysis of this data makes possible a determination of both the eligibility of the foreign resident population for naturalization and the relationship between liberalized naturalization standards and the process of structural integration in post-2000 Germany.

²⁵ German Institute for Economic Research, "The German Socio-Economic Panel Study," German Institute for Economic Research, <http://www.diw.de/english/sop/>, (accessed October 9, 2006).

²⁶ German Social Science Infrastructure Services, "The International Social Survey Program," German Social Science Infrastructure Services, <http://www.gesis.org/en/index.htm>, (accessed November 2, 2006).

1.8- Potential Limitations of the Paper

Despite the potential of this study to contribute to the immigration and integration literature, there are also several limitations that must be acknowledged. One of the primary issues related to the successful execution of this study relates to the possible immaturity of the dataset. With the Nationality Act passed only six years ago, the possibility exists that the relaxed naturalization requirements have simply not had enough time to impact the socioeconomic status of the foreign resident population. Additionally, as with any such study, the subjectivity of the subject-matter, specifically such concepts as social integration, makes it challenging to construct an appropriate set of proxy indicators. These potential problems, however, do not represent insurmountable obstacles. This examination hopes to avoid such issues through a well-structured and careful analysis,

1.9- Outline of the Paper

This examination is structured on the basis of five topical chapters. An Introductory Chapter (1) will supply the foundations for the study. This chapter will begin with an Introduction (1.1) that provides an anecdotal prologue to the subject-matter. It then proceeds to examine the core concepts of the study by chronicling Germany's Emergence as an Immigration State (1.2), providing a brief history of Ethnocultural Identification in Germany (1.3) and examining the Implications of an Ethnocultural Heritage (1.4). The impact of ethnocultural identification on policy formation will then be discussed in Recent Policy Responses (1.5). The paper then begins to address the logistical aspects of the examination by establishing a Research

Question (1.6) and explicating the Research Design (1.7). Finally, the chapter addresses remaining practical issues by recognizing the Potential Limitations of the Paper (1.8) and providing this encapsulating Outline of the Paper (1.9). Next, the Literature Review (2) will begin discussing the relevant scholarly literature by way of a brief Introduction (2.1). To provide a framework for the discussion of German citizenship norms, this section will then overview the strengths and weaknesses of prominent theories of citizenship, including Marshallian Citizenship Theory (2.2), Criticisms of the Marshallian Model (2.3), Post-National Membership Theory (2.4), Criticisms of the Post-National Membership Model (2.5), and Post-Marshallian Citizenship Theory (2.6). This discussion of the various models of citizenship will also consider the perceptions of integration that arise from each of these approaches. From here, the chapter relates these theoretical perspectives back to the initial research question by discussing German Citizenship History in a Theoretical Perspective (2.7). Next, German Citizenship in a Qualitative Context (3) discusses the political development of immigration and integration issues in Germany. The chapter examines these issues in a succession of chronologically-ordered stages: 1952-1973: A Laissez-Faire Approach (3.2), 1973-1981: The Consolidation of the Employment (3.3), 1981-1990: The Emergence of the Foreigner Problem (3.4), 1990-1998: An Upsurge in Xenophobic Violence (3.5), and finally, Post-1998: The New Nationality Act (3.6). The next chapter, The Nationality Act in a Quantitative Context (4), will serve as the most substantive and consequential chapter. The Introduction (4.1) lays the groundwork for the chapter by discussing the institutional framework established by the Nationality Act. The chapter then presents the statistical

and factual findings of the examination based on topical subsections, specifically Cultural Integration (4.1), Political Integration (4.2) and Economic Integration (4.3). Finally, a Conclusion Chapter (5) will examine the implications of the conclusions drawn in the previous section. The chapter begins with anecdotal introduction, The Aftermath of Rütli (5.1). It proceeds to recap some of the important points of the study with Citizenship as Social Closure (5.2). Finally, the chapter recognizes recent developments in German foreigner policy, A New Direction in German Immigration Policy (5.3) and concludes with a brief set of predictions, The Future of Immigration Policy (5.4).

Table 1: Foreigners in Germany since 1950

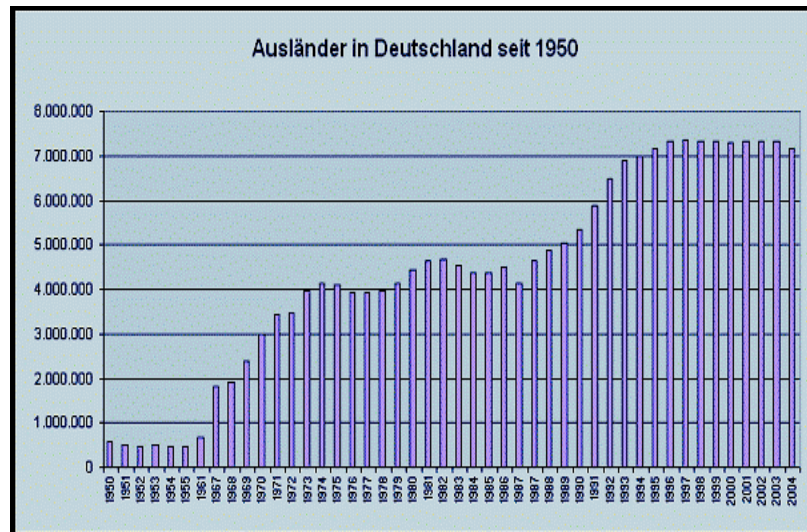
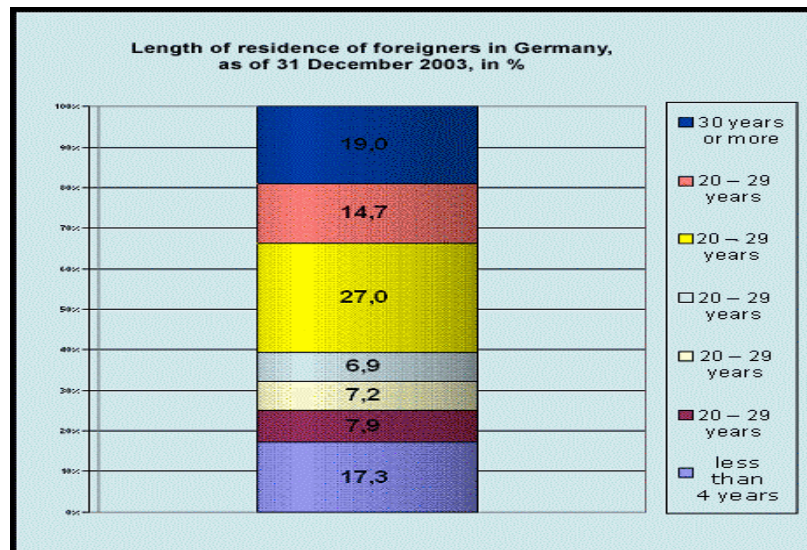


Table 2: Length of Residence of Foreign Population



Chapter 2: Literature Review

2.1- Introduction

In order to analyze the impact of the enactment of the Nationality Act in 2000, a framework must be established through which citizenship and integration can be coherently understood. A review of the literature reveals three main approaches to citizenship. The particular theoretical framework adopted can have a determining influence on the outcome of a study, as the conceptualizations promoted by each school vary dramatically. The traditional approach, first elaborated by T.H. Marshall, established an understanding of citizenship that stressed the equalizing tendencies of the institution of citizenship. More recently, however, scholarly voices have begun to challenge the Marshallian orthodoxy. These approaches have attempted to create a theory of citizenship that recognizes the new realities of an undeniably globalized world. Despite these common foundations, post-Marshallian and post-national thinking, the primary counter-movements to traditional Marshallian theory, present distinct conceptualizations of citizenship. The former, in strict opposition to Marshall's theory, establishes citizenship as a mechanism of social exclusion, while the latter, in refutation of both these theories, promotes a vision of post-national membership. An examination of the literature reveals that each framework proves both well-adept at addressing specific elements of citizenship and ill-equipped to tackle other such elements. In the unique context of the development of German citizenship, however, the post-Marshallian conceptualization of citizenship as social closure represents the most appropriate framework for the examination of German immigration and integration policies.

2.2- Marshallian Citizenship Theory

Most examinations of citizenship begin with T.H Marshall's seminal examination of the development of citizenship in England. Marshall's typology of citizenship deconstructs the concept into three constituent parts, the civil element, the political element and the social element. By the civil element Marshall means "the rights necessary for individual freedom- liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice."¹ The political element means "the right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body."² Finally, Marshall's social element covers "the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being."³ For Marshall, citizenship, as "a status bestowed on those who are full members of a community," thus only emerges after the development of these constituent rights.⁴

Marshall asserts that the formative periods for the development of civil, political and social rights can be assigned to the eighteenth, nineteenth and twentieth centuries, respectively.⁵ The development of the civil element covers a vast array of historical events centered on the eighteenth century. Beginning with the establishment of Habeas Corpus, the formative century for the development of civil rights includes the enactment

¹ T.H. Marshall and Tom Bottomore, *Citizenship and Social Class* (Concord, MA: Pluto Press, 1992): 8.

² Ibid., 8.

³ Ibid.

⁴ Ibid., 18.

⁵ Ibid., 13.

of the Toleration Act, the abolition of press censorship and the Catholic Emancipation.⁶ In the economic realm of the civil element, the eighteenth century also eliminated most restrictions on the economic freedom of the individual.⁷ By the end of the century then, civil rights “bore, in most essentials, the appearance that they have today.”⁸ In a different manner, historical developments in the nineteenth century facilitated the expansion of the political element. The Act of 1832, although not producing a significant quantitative impact, represented the first steps towards the establishment of a more democratic franchise. This thus paved the way for the liberalizations produced by each successive Reform Act and ultimately culminated in the granting of universal suffrage in 1918.⁹ Finally, in the twentieth century, the replacement of the Poor Laws with a public welfare system, the introduction of wage regulation and the establishment of compulsorily elementary education, among other developments, contributed to the advancement of social rights in England.¹⁰ These historical events produced the successive attainment of civil, political and social rights and thus ultimately resulted in the construction of the Marshallian concept of citizenship.

Marshall’s examination, after detailing the development of these constituent rights in the eighteenth, nineteenth and twentieth centuries, proceeds to consider the impact of this concept of citizenship on social inequality. The attainment of civil, political and social rights serves, for Marshall, to include the individual into these separate spheres of society. Citizenship then essentially represents a general mechanism of inclusion into

⁶ Ibid., 10.

⁷ Ibid., 11.

⁸ Ibid., 10.

⁹ Ibid., 13.

¹⁰ Ibid., 15.

society. According to Marshall's theory, "the preservation of economic inequalities has been made more difficult by the enrichment of the status of citizenship" as citizenship breaks down the boundaries that have typically served as delineators of social class.¹¹ Since all who enjoy this status now possess the same entitlements and obligations, citizenship both fosters social equality and acts as a mechanism of inclusion into the societal community.¹²

Marshall's examination of the development of citizenship in England represents an influential work of citizenship theory and has thus provoked support and criticism alike. Recently, the academic consensus has notably shifted away from Marshall's traditional perspective, as many scholars have attempted to construct a framework that better incorporates the new realities of a globalized age. David Held, however, provides a stalwart defense of Marshallian theory. While comparing the merits of Marshall's view with a more contemporaneous approach, Held concludes that Marshallian logic still proves adept at understanding the intricacies of citizenship. At the beginning of his essay, Held recognizes that "Marshall's discussion is explicitly focused on Britain and, although he sometimes generalized beyond this context, he does not claim that his argument can be applied with equal cogency to other countries."¹³ This qualification allows him to reject particular elements of Marshall's theory without necessarily rejecting his conclusion *en masse*. Held begins his work by defining citizenship in Marshallian terms: "citizenship has meant a certain reciprocity of rights against, and duties towards,

¹¹ Ibid., 45.

¹² Ibid., 18.

¹³ David Held, 'Citizenship and Autonomy' in *Political Theory in the Modern State* (Stanford: Stanford University Press, 1984): 190.

the community...citizenship has entailed membership, membership of the community in which one lives one's life."¹⁴ In a similar way to Marshall, Held asserts that this equalization of rights means that "the preservation of economic inequalities has been made more difficult."¹⁵ As a result, class distinctions, while not completely absent, have been greatly weakened by the expansion of citizenship rights and the subsequent moderation of economic inequality. Despite his agreement with Marshall's approach, however, Held asserts that "the post-Marshall debate needs to extend the analysis of citizenship to take account of issues posed by, for instance, feminism, the black movement, ecology and those who have advocated the rights of children."¹⁶ Although he resolutely concurs with Marshall's definition of citizenship as membership in a community and accepts citizenship's moderating effects on social inequality, he ultimately concludes that "a satisfactory account of the meaning and nature of citizenship today must transcend the terms of reference which Marshall has set down."¹⁷ Even for the defenders of Marshall, such as Held, the Marshallian approach, while still valuable, can not adequately address the complexities of modern citizenship.

The Marshallian approach views citizenship as the development of successive categories of rights. The attainment of full citizenship and thus integration, according to Marshallian logic, only occurs once an individual secures civil, political, and social rights. This delineation of rights, however, fails to consider the cultural aspect of integration. Although an immigrant may secure civil, political and social rights, the

¹⁴ Ibid., 100.

¹⁵ Ibid., 192.

¹⁶ Ibid., 199.

¹⁷ Ibid., 202.

unwillingness of the native community to recognize the legitimacy of these rights and/or the reluctance of the immigrant community to embrace them can effectively forestall the integration process. Naturalization, the formalistic granting of civil, political and social rights to an individual, does not, therefore, guaranty integration into society. If immigrants and natives in the receiving state lack the proper norms and behavior, the equal access guaranteed by citizenship (civil, political and social rights) will be severely circumscribed by engrained beliefs and biases. Despite such limitations, integration for the true Marshallian is based on this particular perception of incorporation and therefore only serves as a measure of civil, political, and social incorporation not of actual structural integration.

2.3- Criticisms of the Marshallian Citizenship Model

The critics of Marshall's work essentially argue that the institution of citizenship no longer serves as an instrument of social equality. For natives of any given state, Marshall's approach proves an effective means of concretely defining citizenship. The increase of migratory flows during the era of globalization, however, has complicated such traditionalist conceptions of citizenship.¹⁸ The influx of immigrants necessitates that citizenship be considered from both native and migrant perspectives. Although the perspective of the native may mirror Marshall's conceptualization, this definition proves incapable of incorporating the immigrants' perception of citizenship.¹⁹ Indeed, citizenship, far from acting as a mechanism of inclusion, "has been seen as an instrument and object of social closure; both a marker of membership and a scare good to which

¹⁸ Joppke, "How Immigration is Changing Citizenship," 630.

¹⁹ Halfmann, "Immigration and Citizenship in Germany," 266.

access is sought and restricted.”²⁰ From this perspective, the political exclusion of the immigrant population derives from the granting of citizenship rights to the deprived native social classes, the very “process which Marshall believed would lead modern society toward more equality.”²¹ This process is only exacerbated by the expansive European welfare systems that have led to a noticeable differentiation of the rights enjoyed by citizens and non-citizens. By sharply delineating the rights of the native citizen population from the foreign non-citizen population, the welfare state has actually led to greater inequality.²² The criticisms of post-Marshallian scholars thus primarily focus on the inability of Marshall’s citizenship to address the complexities introduced by the influx and incorporation of immigrants into society during the age of globalization.

In addition to post-Marshallian scholars, a different type of criticism has been voiced by a small group of post-national scholars. Yasemine Soysal, the leading proponent of this approach, asserts that the concept of citizenship has become outdated. With a global human rights regime, the governments of many states have been pressured from various outside influences to institute policies that reflect international human rights norms. As a result, the gap between the rights accorded to non-citizens and the rights accorded to citizens no longer represents a significant source of inequity. From this perspective, Marshall’s attempt to establish a relationship between citizenship and social class thus proves largely obsolete. If states have indeed instituted international human rights norms, not only does citizenship no longer serve as the primary facilitator of the

²⁰ Lydia Morris, “Rights and Controls in the Management of Migration: The Case of Germany,” *The Sociological Review* (2000): 225

²¹ Halfmann, “Immigration and Citizenship in Germany,” 266.

²² *Ibid.*, 267.

equalization of rights, but the issue of social inequality no longer proves tethered to the question of citizenship. Although the seminal work of citizenship literature, proponents and critics alike have recognized the need to either further develop Marshall's theory in the light of the globalized era or to construct an entirely new approach that proves better adapted to the complexities of this new world order.

2.4- *Post-National Membership Theory*

In contrast to Marshallian conceptions of citizenship, post-national scholars have, as mentioned above, attempted to establish the peripheral nature of citizenship in the context of a world system dominated by international regimes rather than individual nation-states. Soysal, the main proponent of this theory, suggests that "post-national membership," essentially the guarantee of universal human rights to immigrants despite citizenship status, has stripped traditional state citizenship of its importance.²³ Soysal builds her argument from the Marshallian proposition that citizenship and its concomitant rights undergo a gradual universalization as it is reconfigured during different stages of history.²⁴ This "universalizing movement has made exclusions based on any criteria of ascribed status incompatible with the institution of citizenship."²⁵ From a Marshallian perspective, this process, however, must be limited to the eradication of exclusions based on any criteria of ascribed status for *citizens* of a particular state. As a result, Soysal's construction of post-national citizenship necessarily refutes the basic tenets of Marshall's model of national citizenship.

²³ Yasemine Soysal, *Limits to Citizenship* (Chicago, IL: Chicago University Press, 1994): 3.

²⁴ *Ibid.*, 137.

²⁵ *Ibid.*,

Indeed, for Soysal, “the incorporation of guestworkers [her primary case study] is no mere expansion of the scope of national citizenship . . . rather, it reveals a profound transformation in the institution of citizenship, both in its institutional logic and in the way it is legitimated.”²⁶ The foundations of post-national citizenship are thus located beyond the confines of the nation-state. As a result, the congruence between membership and territory is no longer identical as in the national citizenship model. Since “in the post-national model, the boundaries of membership are fluid” there arises an unavoidable distinction between territory and membership.²⁷ In addition, post-national membership “implies multiplicity of membership.”²⁸ This multiplicity thus makes it possible to distinguish between various groups of migrants. Unlike the traditional Marshallian conception of citizenship, this allows for an unequal distribution of rights, as “certain groups of migrants are more privileged than others.”²⁹ Despite the lack of uniformity in the distribution of rights, Soysal maintains that the entitlement of migrant groups to some rights has led to the emergence of a more globally-oriented conception of citizenship. She contends that in this new post-national citizenship model, “universal personhood replaces nationhood; and universal human rights replace national rights.”³⁰ This model thus obtains its authority from entirely extra-national sources. As Soysal notes, “post-national membership derives its force and legitimacy from changes in the transnational order that defines the rules and organization of the nation-state

²⁶ Ibid., 139.

²⁷ Ibid., 140.

²⁸ Ibid., 141.

²⁹ Ibid., 141.

³⁰ Ibid., 142.

system.”³¹ Although the state still serves the vital function of providing and implementing rights, both the types of rights implemented and the types of recipients enjoying them are largely dictated by global institutions. In her study of the guestworker populations in various European states, Soysal asserts that “a dense set of interactions facilitated by inter- and transitional market and security arrangements (NATO, the EC, and the UN system) constrain the host states from dispensing with their migrant populations at will.”³² While implementing various rights, the nation-state must then defer to these institutions for basic ground rules and guidelines. For these states, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention on Human Rights, as well as various other international treaties, conventions, charters, and recommendations, provide the normative foundations for the implementation of rights.³³ Locked in by these global norms, a state’s granting of rights must conform to the standards established by these institutions. Soysal insists “the rights defined and codified assure not just the economic, civil, and social rights of individual migrants . . . but also the cultural rights of migrant groups as collectives.”³⁴ As a result, the norms established by transnational and international institutions and the state’s obligation to respect these norms have led to the emergence of a post-national form of citizenship.

³¹ Ibid., 143.

³² Ibid., 144.

³³ Ibid., 145.

³⁴ Ibid., 147.

2.5- Criticisms of the Post-National Membership Model

As Christian Joppke notes, in the former West Germany the integration of guestworkers was characterized, in part, by “post-national membership, in which the universal human rights provisions of the Basic Law endowed settled foreigners with most of the rights and privileges that Germans enjoyed.”³⁵ This post-national membership, however, “allowed the maintenance of ethnic citizenship,” which, in turn, led to the development of a stratified society.³⁶ In addition, despite their post-national membership status, guestworkers, particularly in Germany, have been unable to improve their socioeconomic status. With post-national citizenship maintaining old divisions and failing to mend social disparities, Joppke concludes that “national citizenship remains indispensable for immigrant integration.”³⁷ Although the emergence of post-national membership has cushioned the shock of immigration for first-generation immigrants by providing certain entitlements, it has only served to reinforce the alienation of future generations. As Joppke asserts, “post-national membership is an asset for first-generation immigrants . . . [but] it becomes a liability for second- and third generation immigrants, whose home is the receiving society, but whose lasting exclusion from its national community makes them vulnerable and stigmatized minorities.”³⁸ Indeed, it is hard to deny that the continued marginalization of later generation foreign residents in Germany has reinforced the significance of citizenship in the post-War Germany.

³⁵ Joppke, “How Immigration is Changing Citizenship,” 637.

³⁶ Ibid.

³⁷ Ibid., 645.

³⁸ Ibid.

2.6- *Post-Marshallian Citizenship Theory*

For the post-Marshallian scholar, the incompatibility of Marshallian citizenship with increased migratory flows necessitated a redefinition of this traditional concept. Brubaker, in the foundational work of this school, establishes citizenship as “both an instrument and object of social closure.”³⁹ This departure from the Marshallian convention derives from his assertion that “there is a conceptually clear, legally consequential, and ideologically charged distinction between citizens and foreigners.”⁴⁰ By his “conceptually clear” language, Brubaker means that there exist well-established norms that both distinguish the non-citizen population and justify this distinction. In modern democratic states, sovereignty is said to derive from the consent of that particular states bounded citizenry. Since these modern democratic states are, or at least claim to be, nation-states, the state thus exists “‘of’ and ‘for’ a particular, distinctive, bounded nation.”⁴¹ When a state attempts to “express the will and further the interests of [its] citizenry,” it is therefore acting solely for the benefit of the particular state’s nation and, as a result, with neglect for any individual outside of this exclusive grouping.⁴² This conceptual distinction, though, also has important practical ramifications. In terms of “legally consequential” impacts, Brubaker recognizes the monopoly enjoyed by the state over nearly every key institution. By managing access to institutions, such as admission to and exit from the territory, the right to universal suffrage and the ability to engage in military service, the state has the ability shape the fate of the non-citizen population

³⁹ Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press, 1992): 23.

⁴⁰ Ibid., 21.

⁴¹ Ibid., 28.

⁴² Ibid., 21.

through a regulation of citizenship requirements.⁴³ The impact of the conceptual distinction, though, goes far beyond the practical consequences produced by the legal status of citizenship. Indeed, the “ideologically charged” nature of this distinction adds additional significance to this conception of citizenship. Although much of this ideological dimension derives from the national/non-national distinction, it is further reinforced by insider outsider tensions. Indeed, as Brubaker notes, “formal closure against legal non-citizens may overlap in practice with informal closure against ethnocultural non-nationals.”⁴⁴ In states with strong ethnocultural traditions especially, the line between ethnocultural citizens and ethnocultural non-citizens thus becomes practically imperceptible. As a result, those individuals that find themselves outsiders in terms of citizenship status or ethnocultural identity often differ only to the extent of the formality of their exclusion. Although citizenship “is everywhere an instrument and object of social closure,” Brubaker recognizes that the acquisition of citizenship by a formally excluded individual does not necessitate immediate or even eventual inclusion into society.⁴⁵

Brubaker’s work has provided the foundations for the whole post-Marshallian movement by redefining citizenship as a mechanism of social exclusion rather than social inclusion. Following this path, Halfmann illustrates that Marshall’s definition fails to consider the perspective of the state, which views citizenship strictly as a form of legal membership that serves to limit access to certain entitlements. In addition, the iniquitous

⁴³ Ibid., 23.

⁴⁴ Ibid., 30.

⁴⁵ Ibid., 75.

ramifications of granting welfare entitlements to deprived citizens while withholding them from such non-citizens fundamentally excludes certain residents.⁴⁶ For both a state intent on preserving its limited resources and the non-citizen population deprived of these basic rights, the inclusiveness of citizenship thus derives from a desire for exclusivity. For Halfmann then, citizenship means a “legal institution for regulating membership in a state,” rather than active participation in a national community.⁴⁷

Similarly, the increasing interconnectedness of the globalized era, specifically in terms of human capital, leads Morris to question the applicability of the traditional Marshallian understanding of citizenship. In fact, “state control over the granting and withholding of rights is a key component in the management of migration.”⁴⁸ Immigration has thus lead to the transformation of the understanding of citizenship from an instrument of societal inclusion to a mechanism for controlling the distribution of rights to the resident population. As a result, Morris concludes that the reluctance to extend citizenship to certain populations has resulted in “a system of inequalities structured by rights granted or withheld by the state.”⁴⁹ She thus asserts that citizenship now serves the express purpose of excluding designated populations from certain entitlements in the interest of preserving the state’s limited resources.

Joppke likewise rejects Marshallian citizenship since “the movement of people across states revealed that citizenship is not only a set of rights, but also a mechanism of

⁴⁶ Halfmann, “Immigration and Citizenship in Germany,” 267.

⁴⁷ Ibid., 263.

⁴⁸ Morris, “Rights and Controls,” 225.

⁴⁹ Ibid., 226.

closure that sharply demarcates the boundaries of states.”⁵⁰ Because of the ability of citizenship to include and exclude individuals, Joppke asserts the continued centrality of national citizenship for the integration of immigrant communities.⁵¹ Essentially, post-Marshallians argue that the institution of citizenship no longer serves as an instrument of social equality. Citizenship instead represents a mechanism of social closure, since “there is a conceptually clear, legally consequential, and ideologically charged distinction between citizens and foreigners.”⁵² With the state claiming to express the will of its citizens, the actions of the state aim at furthering the interests of this limited citizenry, which, consequentially, produces a systematic disregard for the needs of the foreign population.

Unlike the Marshallian approach, post-Marshallian integration theory includes a consideration of the cultural factor. The addition of this separate cultural element appears repeatedly in the post-Marshallian literature. Halfmann’s study, for example, uses a breakdown that recognizes the necessity of political, cultural, and economic integration, although cultural inclusion appears in his examination of the self-identification of the immigrant as a member of the nation.⁵³ Michael Fertig, following much the same path, utilizes a variety of qualitative information, essentially measures of economic and political integration, and subjective data, or measures of the more relative process of cultural inclusion.⁵⁴ Similarly, a report by the German Federal Office of Migration and

⁵⁰ Joppke, “How Immigration is Changing Citizenship,” 629.

⁵¹ *Ibid.*, 645.

⁵² Brubaker, “Citizenship and Nationhood,” 21.

⁵³ Halfmann, “Immigration and Citizenship in Germany,” 263.

⁵⁴ Michael Fertig, “The Societal Integration of Immigrants in Germany,” IZA Discussion Paper No. 1213 (July 2004): 7.

Refugees states that a facilitation of integration requires both cultural (a better understanding of German culture by the immigrant population) and economic and political reforms (improving educational attainment and qualification levels of the immigrant population and encouraging political participation).⁵⁵ In a study of immigrant integration in Belgium, Phaet and Swyngedouw discuss measures of the cultural, political and socioeconomic dimensions of integration.⁵⁶ Their study thus considers cultural, political and economic inclusion. Additionally, David May, in attempting to construct a meaningful way to order the various dimensions of immigrant integration, concludes that breakdowns with cultural, political and economic elements “can be found in the literature in many different variants.”⁵⁷

2.7- German Immigration History in a Theoretical Perspective

As ideal types none of these competing theoretical approaches can accurately describe the true nature of citizenship and immigration in a complex modern polity such as Germany. The challenge thus arises to determine which approach most accurately captures the status and function of citizenship in the country both historically and contemporaneously. In order to assess the applicability of these approaches, a brief overview of the history of immigration to Germany proves necessary. By analyzing this history, it proves possible to reveal the traditional relationship between immigration and citizenship in the German state system. The precise nature of this relationship, in turn,

⁵⁵ Federal Office of Migration and Refugees, “The Impact of Immigration,” 29.

⁵⁶ Karen Phaet and Marc Swyngedouw, “Measuring Immigrant Integration: The Case of Belgium,” *Migration Studies*, XL, no. 152 (2003): 1.

⁵⁷ May, “Theories of Integration Revisited,” 4.

allows for a determination of the most appropriate conceptualization of citizenship and integration for the purposes of this study.

For centuries Germany has explicitly denied being a country of immigration. Only recently, particularly after the reunification of the country, did policymakers begin to unambiguously accept this controversial reality. Despite only a recent acknowledgment of this status, many scholars note that German history has traditionally been characterized by large inflows of migrant laborers.⁵⁸ Large-scale immigration to Germany, as in most countries, has resulted in the development of an ambivalent attitude towards immigration. In this context, early policies, specifically descent-based citizenship regimes, expressly attempted to exclude the immigrant population from formal inclusion in the state system. The unexpected ramifications of these systems, however, led to the institution of an ethnically-based conception of citizenship in Germany. Although ethnic citizenship standards represented above all a practical attempt to address the shortcomings of descent-based measures, they effectively maintained the exclusivist tendencies of the old descent-based systems. The remarkable resiliency of this ethnocultural understanding of citizenship, though the result of pure geopolitical coincidence, gradually led to the institutionalization of these ethnic standards of citizenship. In this context, the relationship between immigration and citizenship in Germany has necessarily resulted in the persistent exclusion of the migrant population.

Beginning as early as the seventeenth century, Germany has consistently been the recipient of a vast number of immigrants from various states. As early as 1640, a large

⁵⁸ Wesley D. Chapin, *Germany for the Germans? The Political Effects of International Migration* (London: Greenwood Press, 1997): 1.

number of migrants of Swiss origin immigrated to Germany. These immigrants were followed closely by waves of French Huguenots attempting to escape persecution. Such religiously-motivated migrations, however, represented only a small segment of the larger process of immigration to Germany during the seventeenth century. Indeed, after the Thirty Years War devastated all of central Europe, massive population losses within Germany opened up jobs and land and attracted steady streams of migrants to the war-torn country. As a result, during the second half of the seventeenth century, an enormous amount of individuals migrated to Germany, including 40,000 Austrians, 150,000 Bohemians, 43,000 Huguenots, 50,000 Swiss, and a smaller number of various other nationalities.⁵⁹ From early on, immigration has thus represented a consistent feature of the German state system.

This massive influx of immigrants was not a unique feature of the seventeenth century. Rather, similar population movements also characterized much of the eighteenth century.⁶⁰ Spurred by the proclamation of religious toleration by Frederick the Great during the middle of century, religious refugees flocked to Germany in order to escape persecution. In addition, the industrialization and economic development that characterized Germany during this era demanded a drastic increase in laborers and thus led to the unprecedented surge in immigration levels towards the end of the century.⁶¹ In response, “the German Reich instituted a system of control designed to turn potentially permanent immigration into a temporary phenomenon.”⁶² This simultaneous demand for

⁵⁹ Ibid., 3.

⁶⁰ Ibid., 3.

⁶¹ Ibid., 4.

⁶² Ibid.

and rejection of foreign labor represents the first appearance of a reoccurring motif in the traditional management of immigration to Germany.

Nineteenth century approaches to immigration were marked by this same peculiar ambivalence. Various German states, for instance, attempted to establish citizenship restrictions that would prevent immigration (although sorely needed) from becoming a permanent phenomenon. In 1842 Prussia codified, for the first time, a citizenship regime based entirely on descent.⁶³ The precedent established by the Prussian law of 1842 was subsequently followed by similar legislation in a variety of other German states. An act passed in 1870 by the North German Confederation, for instance, established direct descent as the only means of acquiring citizenship.⁶⁴ The purpose of these laws was to clarify the inclusion or exclusion of certain individuals from the German polity. With approximately 950,000 foreign laborers residing in Germany by 1907, the foreign population was beginning to threaten traditional understandings of the German nation.⁶⁵ While these legislative actions did effectively exclude the immigrant population, “the addition of descent as the basis of citizenship,” however, “was not a panacea.”⁶⁶ Indeed, with the new citizenship regime determining descent based on continuous residence of both parents within the state territory, it led to the denationalization of a portion of ethnic Germans in addition to the targeted class of foreign laborers.

In response to the unexpected impact of the descent-based systems, the German Empire enacted the Imperial and State Citizenship Act of 1913, which represented the

⁶³ Koppenfels, “Politically Minded,” 8.

⁶⁴ Ibid.

⁶⁵ Ibid., 5.

⁶⁶ Ibid.

first official immigration policy of the unified German state. The passage of this law represented both “an attempt to minimize the loss citizenship” for ethnic Germans and an implicit reinforcement of the systematic exclusion of the foreign population.⁶⁷ As a result, the Citizenship Act of 1913, like the descent-based systems before it, institutionally excluded the immigrant population from the German state. Despite the exclusivist tendencies of this statute, it would remain in force until 1999 due to the unique geopolitical concerns of Germany during the twentieth century (specifically, it provided legal justification for accepting ethnic German refugees from the Soviet bloc during the Cold War). Although maintained for pragmatic purposes, modern German citizenship policy, which evolved directly from descent-based measures, retained naturalization standards that explicitly stemmed from the desire to exclude immigrants from the German polity.

The remarkable resiliency of ethnocultural citizenship standards in Germany ultimately led to the institutionalization of exclusivist norms of state membership. At the same time, however, the new political and economic realities of the twentieth century demanded the importation of foreign labor to Germany. These contradictory forces thus reinforced the “long-standing German tension between the desires for cheap foreign labor as well as an ethnically pure culture.”⁶⁸

As early as the beginning of the twentieth century “German employers . . . recognized the economic advantages of the instrumental employment of foreigners.”⁶⁹

⁶⁷ Ibid., 9.

⁶⁸ Brett Klopp, *German Multiculturalism: Immigrant Integration and the Transformation of Citizenship* (London: Praeger Press, 2002): 35.

⁶⁹ Ibid., 36.

The outbreak of World War I in 1914 represented the first major application of this economic philosophy. “Throughout the war some 500,000 to 600,000 forced laborers were recruited from occupied Russian territory” to replace the German workers sent to the front.⁷⁰ After the war, however, Germany, informed by engrained ethnocultural norms, forced the majority of these replacement workers to leave the country. This outflow evoked protests from both agriculture and industry alike, as both sectors thrived on the easily-manipulated and cheaply-compensated labor provided by foreign migrants.⁷¹ Ultimately, however, popular sentiments of ethnic identification largely drowned out the more practically-minded economic concerns of these sectors.

Since Germany had systemically excluded its immigrant population, by the time “the Nazis came to power in 1933 the foreign population was [again] marginal.”⁷² The Nazis’ rapid rearming of the German military, however, produced yet another upsurge in foreign labor recruitment. This demand resulted in an influx of migrants, who “were again employed and treated as temporary foreign labor possessing only limited rights.”⁷³ “By the end of the war at least 25 percent of those employed in the German economy were foreigners,” with the total immigrant population amounting to around 7 million.⁷⁴ Despite this high concentration of foreigners in Germany immediately following the War, the domestic situation during this period produced a high degree of labor mobility, as refugees and expellees returned and prisoners of war and forced laborers emigrated. As a

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid., 37.

result of this mass exodus, Germany again experienced a rapid deterioration of its valuable corps of foreign laborers.

This mass emigration, combined with the devastating effects of the War on the German workforce, once more necessitated massive foreign labor recruitment in Germany.⁷⁵ With the rapid expansion of the German economy in the early 1950s, “the demand for labor rose substantially and government officials projected that foreign labor recruitment would be necessary to maintain the expansion.”⁷⁶ The labor provided by bilateral recruitment treaties therefore provided the manpower necessary to fuel the so-called German economic miracle. The unparalleled growth of the German economy during this period thus verified for many that “foreign labor was both necessary and profitable.”⁷⁷ Again, however, ethnocultural citizenship norms prevented the official incorporation of this population. Indeed, the German government, although pointing to the OPEC oil embargo, terminated recruitment programs in 1973 as an attempt to enforce these exclusivist citizenship norms.⁷⁸

As in the past, economic utility and cultural purity promoted contradictory approaches to the management of immigration in Germany. While economic justifications continued to demand the recruitment of foreign laborers, ethnocultural citizenship norms incessantly called for the establishment of an ethnically homogenous German nation-state. The institutionalization of ethnocultural norms and the increased demand for foreign labor in contemporary Germany has engrained these tensions in the

⁷⁵ Ibid., 34,

⁷⁶ Ibid., 38.

⁷⁷ Ibid.

⁷⁸ Ibid.

present-day debate over immigration and citizenship. With poignant allusions to the German nation consistently trumping economic pragmatism, the foreign resident population has been systematically excluded from the German polity. The historical utilization of state membership as a means of exclusion in Germany exemplifies post-Marshallian conceptualizations of citizenship. This study thus relies on this framework in attempting to determine the impact of the enactment of the Nationality Act of 1999 on the structural integration of Germany's foreign resident population.

Chapter 3: *The Nationality Act in a Qualitative Context*

3.1- *Introduction*

The previous chapter provided an overview of the strengths and weaknesses of prominent theories of citizenship. In the context of the historical relationship between citizenship and immigration in Germany, post-Marshallian conceptions of citizenship provide the most appropriate framework for assessing the current nature of this relationship. As noted in the previous chapter, the Federal Republic of Germany, long before its consolidation into a modern nation-state, experienced population movements of various sizes, from diverse origins and with assorted ambitions. As in most states, the growth in the foreign population in Germany resulted in the development of an ambivalent approach to the management of immigration. While economic pragmatists continuously recognized immigration as the key to economic growth in the country, national purists identified the exclusion of the foreign population as essential to the preservation of the German nation and the maintenance of societal stability. Throughout the history of the management of immigration to Germany, the poignancy of the national argument has consistently trumped the sensibility of the economic argument. Immigration policies, as a result, have consistently relied on an ethnocultural construction of German citizenship to exclude the immigrant population from official membership in the state system. The resiliency of the Citizenship Act of 1913 gradually institutionalized these ethnocultural citizenship norms. In this context, citizenship, as an ethnic marker, has systematically prevented the inclusion of the foreign population in the German polity. The traditional relationship between immigration and citizenship in Germany therefore

exemplifies the post-Marshallian conceptualization of citizenship as both an object and instrument of social closure.

In the framework of post-Marshallian citizenship theory, this chapter qualitatively examines the impact of this conception of citizenship on the construction of immigration and integration policy in Germany. By observing the major policy developments since the beginning of the post-War migrations in the early 1950s, this chapter allows for the establishment of a qualitative context for the examination of the integration of the foreign resident population. Although post-Marshallian citizenship theory unquestionably characterizes the theoretical nature of German foreigner policy, significant immigration and integration policies and events act as the principle vehicles through which theoretical understandings are practically articulated. For the present evaluation of the Nationality Act of 1999, the practical manifestations of German immigration and integration policy, as opposed to their theoretical underpinnings, provide the qualitative context for the assessment of the progress of the integration of the foreign resident population. Specifically, this context provides the quantitative analysis of the following chapter with the framework required for an informed analysis of the impact of the new Nationality Act.

3.2- 1952-1973: A Laissez-Faire Approach

This period created the basic foundations for the eventual emergence of immigration as both an important practical concern and a heated political issue. During this twenty-year phase, Germany unquestionably experienced the most influential period of immigration in its history. In order to reconstruct the German economy and

infrastructure after the devastation of World War II, the Federal Republic of Germany pursued a program of extensive low-skill foreign labor recruitment in the post-War years.¹ Accordingly, Germany secured labor recruitment agreements with Italy (1955), Spain and Greece (1960), Turkey (1961), Portugal (1964), Tunisia and Morocco (1965) and Yugoslavia (1968).² Guestworkers from these countries entered Germany under the terms of various labor contracts that stipulated a particular, although always abbreviated, window for employment, typically as short as one or two years. A rotation principle, which in theory obliged immigrants with expired work contracts to emigrate, was put in place to ensure that this immigration represented only a temporary phenomenon. “The planned rotation principle... [however], “was not continued in practice for long.”³ As a result, of the some 14 million foreign workers that came to Germany during this period of recruitment only about 11 million ever emigrated in accordance with the rotation principle (the residual 3 million immigrants represented more than 5 per cent of Germany’s 1973 population).⁴ With the rotation principle failing to regulate the residency of the immigrant population, the ostensibly temporary phenomenon of foreign labor recruitment quickly began to assume a more permanent nature.

The perception of foreign labor recruitment in this era as a temporary phenomenon largely shaped the initial discourse on immigration and integration in Germany. During this period, as the German Federal Office of Migration and Refugees

¹ Federal Office for Migration and Refugees, “Impact of Immigration,” 13.

² Barbara Marshall, *Europe in Change: The New Germany and Migration in Europe* (New York: Manchester University Press, 2000): 11.

³ Ibid., 13.

⁴ Federal Office for Migration and Refugees, “Impact of Immigration,” 13.

has noted, “German integration policy was characterized by a ‘laissez-faire-approach.’”⁵ When recruitment began in 1955, German policymakers had assumed that recruited foreign laborers would simply return to their respective countries of origin after their working contracts expired. In this context, immigrants were logically viewed as temporary denizens with a specific economic purpose. Promotional campaigns aimed at selling the recruitment programs coaxed the German public into accepting these policies precisely by reference to this perception. These campaigns claimed that foreign laborers would boost economic progress, facilitate growth, replace men lost during the War and, most importantly, leave during times of economic recession.⁶ With the immigrant population both portrayed and treated as expendable instruments of economic development, “a comprehensive integration policy was not deemed necessary.”⁷

Since immigration was viewed as a temporary phenomenon, Germany enacted neither a specific policy on foreigners nor any identifiable integration measures.⁸ With the ineffectiveness of the rotation principle and the increasing inclination of immigrants to remain in Germany, however, the absence of any overarching immigration or integration policies soon became a glaring problem. The economic recession of the early 1970s not only led to a predictable decrease in the demand for foreign labor but also to a less predictable increase in anti-foreigner sentiments. Economic scapegoating, combined with the increasing unavoidability of the permanency of the immigrant population, critically challenged the German government’s subscription to a laissez-faire

⁵ Ibid., 45.

⁶ Chapin, *Germany for the Germans*, 10.

⁷ Ibid., 45.

⁸ Yuce, “Challenge of Becoming an Immigration Country,” 67.

management of immigration.⁹ As it became increasingly obvious that many of these so-called guestworkers were intent on a more permanent type of residency, the emerging foreign resident population began to challenge engrained ethnocultural understandings of the German nation-state. The first attempt to regulate the immigrant population, specifically the Foreigners Law of 1965, reflected the concerns inherent in ethnocultural ideology. In relevant part, the statute stated that work permits will be provided “only if the presence of the foreigner does not damage the interests of the Federal Republic.”¹⁰ Although at the beginning of this period guestworkers represented a desirable economic instrument, by the early 1970s, due largely to domestic economic stagnation, this population was instead perceived as a source of societal instability.

This twenty year span represents a seminal chapter in the development of the immigration and integration debate in Germany. Not only did policies during this era lead to the establishment of a permanent immigrant population, but, perhaps more importantly, they established a pattern of exclusion that would characterize the treatment of foreigners in Germany for decades to come. By viewing immigrants merely as temporary economic agents, Germany failed to develop any effective means of managing the emerging foreign resident population. Informed primarily by an ethnocultural conception of German nationhood, a laissez-faire approach instead characterized the management of the foreign population during this era. With this hands-off approach combining with ethnic standards of identification in Germany, this early treatment of the

⁹ Ibid., 68.

¹⁰ Marshall, *Europe in Change*, 11.

guestworker population led to the institutionalization of exclusivist foreigner policies in Germany.

3.3- 1973-1981: *The Consolidation of Employment*

The second phase of German immigration policy was defined by the imposition of legal restrictions upon the number of immigrants allowed to enter the country. The 1973 oil crisis and the economic recession that followed served as the official justification for Germany's ban on labor recruitment in November of 1973. "However, the economic argument only disguised the more profound official unease with the social and political problems which immigration had already created and which [many feared] would get worse if it was allowed to continue unhindered."¹¹ In light of these concerns, Germany "pursued a policy of the 'consolidation of the employment of foreigners' after the official ban on foreign labor recruitment."¹² The objective of this policy was to both encourage the emigration of foreign employees and to support the integration (read assimilation) of the remaining foreign resident population.¹³

On the one hand, this led the federal government to offer the foreign population various inducements to leave the country. On the other hand, however, this produced a slightly more hospitable situation for the foreign resident population.¹⁴ During this decade, important federal court decisions began to assure the constitutional rights of this population. The Arab Case (1973) and the Indian Case (1978), for instance, "secured the residence rights of *de-facto* immigrants" by reducing the absolute discretion that state

¹¹ Marhsall, *Europe in Change*, 12.

¹² Federal Office for Migration and Refugees, "Impact of Immigration," 45.

¹³ Ibid.

¹⁴ Yuce, "Challenge of Becoming an Immigration Country," 69.

agencies had enjoyed over the granting of work and residency permits.¹⁵ Federal policies also, by easing restrictions on family reunification policies, allowed many guestworkers to bring their families to Germany. Additionally, the official termination of the rotation system, combined with the new ban on foreign labor recruitment, meant that the current rotation of foreign workers was an indispensable asset for the German economy.¹⁶ These conditions intended to induce the settlement and assimilation of the marginalized guestworker community into mainstream German society. Despite such efforts, many politicians, such as Hans Filbinger, the Governing Mayor of Baden-Württemberg, continued to demand the return of the foreign worker population to their countries of origin in line with the now defunct rotation principle.¹⁷ In defense of these more hospitable foreigner policies, however, trade unions along with opposition parties asserted that emigration, by replacing experienced workers with new recruits, represented an entirely “uneconomical” process.¹⁸ Economic common-sense, combined with failed attempts to assimilate the guestworker population, meant that “by the late 1970s Germany had effectively become an immigration country.”¹⁹

Despite Germany’s refusal to accept its *de facto* immigration status, the shifting demographic reality in the country demanded political attention. Although more hospitable foreigner policies were aimed at assimilating the guestworker population and thus maintaining the country’s non-immigration status, these policies, combined with continued economic demand, reinforced the visibility and influence of the foreign

¹⁵ Joppke, *Immigration and the Nation State*, 73.

¹⁶ Marshall, *Europe in Change*, 12.

¹⁷ Yuce, “Challenge of Becoming an Immigration Country,” 70

¹⁸ Ibid.

¹⁹ Marshall, *Europe in Change*, 12.

resident community. As a result, by the end of this period, around 4.4 million foreigners (over 7 per cent of the total population) were permanently residing in Germany.²⁰ After the failure of efforts to assimilate this population, however, many thought that the dramatic transformation of German society “would plunge the country into social conflicts.”²¹ Indeed, with the economic problems produced by the oil shock of 1973, the realization of the permanent as opposed to temporary nature of the guestworker population, and the increasingly non-European composition of this population, this period did eventually witness an alarming increase in xenophobic and racist confrontations.²²

In response to the destabilization that the growing tensions between the native German and foreign resident communities produced, several attempts were made to ease the relations between these populations. Many of these policies advocated integration (assimilation in the ethnocultural context of the era) as the key to societal stability. While the initial German reaction to this situation “consisted of the attempt to strengthen the recruitment ban in 1974,” this policy was quickly rescinded due to utter ineffectiveness.²³ As a result, the focus instead shifted towards integration. To administer this process Germany thus created the post of Ombudsman for the Advancement of the Integration of Foreign Workers and their Families on December 1, 1978.²⁴ Heinz Kühn, the first occupant of this post, published the Kühn Memorandum in 1979, which called for a number of very progressive and liberal integration policies.²⁵ Intent on genuinely

²⁰ Yuce, “Challenge of Becoming an Immigration Country,” 70 and Chapin, *Germany for the Germans?*, 9.

²¹ Yuce, “Challenge of Becoming an Immigration Country,” 71.

²² Chapin, *Germany for the Germans?*, 12.

²³ Marhsall, *Europe in Change*, 12.

²⁴ Ibid., 13.

²⁵ Federal Office for Migration and Refugees, “Impact of Immigration,” 46.

integrating, as opposed to coercively assimilating, second generation foreign residents, Kühn proposed several progressive policies, including extending the franchise to foreigners born in Germany and providing the children of Muslim immigrant families with lectures on Islam at school.²⁶ Unfortunately, however, the incompatibility of these progressive policies with ethnocultural norms ultimately prevented the enactment of nearly all of Kühn's proposals.²⁷ This episode, by exemplifying the difficulty of reconciling foreigner issues with the maintenance of an ethnic understanding of nationhood, "conveyed an early insight into the difficulties of a country not acknowledging its *de-facto* immigration situation."²⁸

By the end of this period, the attempted consolidation of the employment of foreigners had become increasingly untenable. Although ethnocultural attitudes demanded the emigration of the foreign resident population, the economic utility of foreign labor combined with ineffective assimilation policies to produce a permanent foreign resident population. This new reality forced policymakers to shift their focus from emigration towards renewed efforts of assimilation. Assimilationist policies, such as family reunification, however, promoted the growth and permanency of the foreign resident population. Meanwhile, more authentic efforts to integrate the foreign population, such as the formation of federal foreigner's commissions, proved incapable of overcoming engrained ethnocultural conceptions of nationhood in Germany. While simple economics and failed assimilation measures guaranteed the continued presence of

²⁵ Chapin, *Germany for the Germans?*, 12.

²⁶ Yuce, "Challenge of Becoming an Immigration Country," 72.

²⁷ Marshall, *Europe in Change*, 13.

²⁸ Federal Office for Migration and Refugees, "Impact of Immigration," 46.

a significant foreign resident community in Germany, the unwillingness of the federal government to accept its *de facto* immigration status ultimately prevented the successful integration of this population. As a result, the consistent exclusion of this population from mainstream German society has resulted in the creation of a noticeable disparity between the privileged ethnic German majority and the disenfranchised foreign resident minority. This dynamic, while establishing an uneasy relationship between these two communities, has also laid the foundations for the potential eruption of widespread xenophobic and racial confrontations in Germany.

3.4- 1981-1990: The Emergence of the Foreigner Problem

Largely as a result of the persistency of regressive ethnocultural sentiments, this stage in the development of German immigration and integration policy has been described by some analysts as a “lost decade.”²⁹ Although the Kühn Memorandum, lenient family reunification policies and the reinforcement of the residency rights of the foreign population during the 1970s provided a solid foundation for integration efforts, this decade was largely characterized by policy retrenchment. For the first time in the modern history of German immigration, immigration and integration issues began to be discussed under the rubric of a “foreigner problem.”³⁰ This new discourse and the policy retrenchment that it produced stemmed primarily from the perceived threat posed by the influx into Germany of large numbers of recruited guestworkers during the initial phase of migration to post-War Germany. With the composition of German society now more than ever beginning to bear the impact of this population movement, the native German

²⁹ Ibid.

³⁰ Yuce, “Challenge of Becoming an Immigration Country,” 72.

population increasingly came to view foreign resident communities as a source of societal instability.

After Kühn's progressive integration policies were summarily rejected by government leadership, he resigned in frustration in 1979. In the early 1980's, his successor, Liselotte Funke, initiated a series of policies which represented a fundamental "change of tack in official policy, away from the short-lived emphasis on integration."³¹ These policies instead promoted a three-pronged approach that involved the exclusion of as many new arrivals as possible, the repatriation of the current foreign resident population with the paying of inducements, and, for those that refused to emigrate, the integration, or in this context, the coerced conversion to dominant German culture of the remaining foreign resident population.³² Not only did these policy proposals explicitly aim to induce the emigration of the current foreign resident population and further limit the number of migrants entering Germany, but they also established limits to this population's internal mobility by restricting "the entrance of foreign workers into certain cities."³³ Continuing in this vein, the Turkish and Yugoslav decisions of 1987 furthered this widespread policy retrenchment by reaffirming absolute state discretion in determining the residency status of the foreign resident community.³⁴ As opposed to Kühn's encouragement of Islam in schools or his promotion of a wider franchise, official foreigner policies during this era aimed at producing a homogenously "German" society by instituting measures based on ethnocultural conceptions of German nationhood.

³¹ Marshall, *Europe in Change*, 13.

³² Ibid.

³³ Yuce, "Challenge of Becoming an Immigration Country," 72.

³⁴ Joppke, *Immigration and the Nation State*, 74-75.

The shift in the official policy stance of the German government regarding issues of immigration and integration during this stage stemmed precisely from the anti-foreigner sentiments that inevitably accompany ethnocultural ideology. Although Germany, with its tradition of ethnoculturalism, never exhibited a particularly favorable view of its foreign population, immigrants during this decade began to be overtly considered a source of societal instability. This perception of foreigners derived primarily from the “belief that social peace [in Germany] would be destroyed by” the inevitable clashes produced by the emergence of an immigrant reality in an ethnocultural context.³⁵ Although the official termination of recruitment programs in 1973 ostensibly ended large-scale immigration to Germany, the combination of *jus sanguinis* standards of citizenship and ineffective assimilation efforts in the 1970s resulted in the emergence of a rapidly growing and systematically marginalized foreign resident community. This population, by fundamentally challenging the ethnocultural homogeneity that had traditionally characterized German society, represented a profoundly destabilizing force.

The progressive policy recommendations of the Kühn Memorandum of 1979 had developed directly from the recognition of Germany’s *de facto* immigration status. In contrast, the understanding of immigration and integration issues as a foreigner problem and the resulting development of regressive policies in the 1980s emerged directly from the continued assertion of Germany’s non-immigration status.³⁶ As an attempt to justify exclusivist measures, policymakers throughout the decade thus continually referenced Germany’s traditional (although not exactly historical) immigration status. On

³⁵ Yuce, “Challenge of Becoming an Immigration Country,” 73.

³⁶ Klopp, *German Multiculturalism*, 46.

November 11, 1981, for instance, the German government issued a press release affirming that “Germany does not want to become an immigration country and will not do so.”³⁷ A year later the federal government again declared that “the Federal Republic...is not a country of immigration and that it should not become one.”³⁸ These assertions established the foundations for the construction of immigration and integration issues in Germany as a foreigner problem and, in turn, provided the basic impetus for the retrenchment of foreigner policies during this timeframe.

As the decade progressed, however, it became increasingly difficult to maintain this fiction. The Act to Promote the Preparedness of Foreign Workers to Return (1983), which aimed to realign the demographic reality in Germany with the country’s traditional ethnocultural ideology, represented the principal crystallization of immigration and integration policy during this period.³⁹ The statute explicitly aimed to eliminate, or at least substantially reduce, the large population of foreign residents living in Germany by attaching significant monetary incentives (around DM 10,000 per individual) to emigration. Ultimately, however, only 300,000 foreigners, an insignificant fraction of the population, accepted this offer.⁴⁰ The statute’s failure both reaffirmed the long-term intentions of the foreign resident population and accentuated the German government’s inability to coerce emigration after the Arab and Indian decisions of the mid-1970s. More importantly, the inability of the German government to facilitate the emigration of this population implicitly established Germany as a country of immigration. Largely as a

³⁷ Yuce, “Challenge of Becoming an Immigration Country,” 73.

³⁸ Marshall, *Europe in Change*, 13.

³⁹ Ibid., 14.

⁴⁰ Marshall, *Europe in Change*, 13 and Yuce, “Challenge of Becoming an Immigration Country,” 74.

result of this unavoidable reality, “the perception grew [among policymakers] of the moral obligation which Germany owed its guestworkers and their families.”⁴¹ Despite the new-found concern for the foreign resident population, however, the persistent incompatibility between the contemporary state of affairs and traditional ethnocultural conceptions of Germany nationhood forestalled any significant integration. By relying on the recently established “Foreigners Offices of the *Länder* to implement administrative regulations,” the federal government addressed these moral obligations indirectly.⁴² This decentralization of immigration and integration policies thus allowed the federal government to address its responsibilities to the foreign resident population while simultaneously avoiding the practical political problems that the enactment of such policies inevitably creates in a political climate characterized by ethnocultural ideology.

The construction of the discourse on issues related to the guestworker community as a foreigner problem definitively characterized the development of immigration and integration policy during this period. In the context of the German nation’s historical ethnocultural identification, the presence of a large foreign population threatened the stability of the German nation-state. This population was thus identified as a potent source of social volatility. The so-called foreigner problem, in turn, shaped the character of official immigration and integration policies during this stage of German policy development. As the shifting demographic reality during this decade made it increasingly difficult to maintain the fiction of Germany’s non-immigration status, however, the exclusivist foreigner policies that emerged from this discourse were

⁴¹ Marshall, *Europe in Change*, 14.

⁴² Ibid.

fundamentally challenged. Despite the unavoidable need for more realistic policy measures, a basic incompatibility characterized the relationship between emergent immigration and integration policies and traditional understandings of the German nation-state. This period, although implicitly establishing Germany as an immigration country, therefore failed to produce the policies required for the country's successful transition into its new role.

3.5- 1990-1998: An Upsurge in Xenophobic Violence

Largely as a result of this new-found moral obligation, the beginning of the 1990s witnessed the passage of the new Foreigners Law on January 1, 1991.⁴³ Although the statute did signify an important development in German immigration policy, it ultimately represented an ambiguous and, consequentially, ineffective policy. The failure of this statute compelled many policymakers, such as Cornelia Schmalz-Jacobsen, the new Federal Commissioner for Foreigners, to continue to demand more comprehensive integration measures. These calls for reform were reinforced by several incidents in the early 1990s that accentuated the need for effective immigration and integration policies. At the beginning of the decade, the formal disintegration of the Soviet Union combined with the emergence of a violent conflict in the former Yugoslavia to produce an unprecedented influx of refugees to Germany. In addition, the destabilizations produced by German reunification resulted in a surge of xenophobic violence across the country. This combination of political events thus highlighted the need for comprehensive and effective foreigner policies in the country. However, while these events did reveal the

⁴³ Ibid.

necessity of such reforms, they ultimately forestalled the institution of progressive policies by transforming the foreigner issue from a practical concern into a political issue.

The 1990s in Germany began on a positive note in terms of immigration and integration policy with the passing of the Foreigners Law in 1990. The statute reflected the emerging consensus among policymakers of the need for the “gradual adaptation” of the foreign population.⁴⁴ By the end of the 1980s, 60 per cent of the foreign residents in the Federal Republic had been born there, making it increasingly difficult for the federal government to maintain the exclusivist policies that emerged from a traditional subscription to ethnocultural norms.⁴⁵ The Foreigners Law attempted to address this situation by establishing a comprehensive and up-to-date immigration policy. The statute expanded residence rights for those with unlimited residency permits, opened new opportunities for family reunification, liberalized the rules on naturalization, and generally “recogniz[ed] the permanent settlement of guestworkers.”⁴⁶ Although the new Foreigners Law did represent a significant liberalization, it also retained several important restrictions. The new statute, for instance, maintained the distinction between work and residency permits, which effectively allowed the federal government to prevent foreigners entitled to work from permanent residence and foreigners entitled to residence from legally working.⁴⁷ As Barbara Marshall asserts, this ambivalence ultimately derived from the fact that the Foreigners Law “still maintained the fundamental distinction between Germans and foreigners...and continued to refer to the recruitment of

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Chapin, *Germany for the Germans?*, 18.

⁴⁷ Ibid.

guestworkers as a unique event in the past which must not be repeated.”⁴⁸ By refusing to accept Germany’s *de facto* immigration status and continuing to differentiate natives from foreigners, the new statute maintained two of the central assumptions of ethnocultural ideology. As a result, the new Foreigners Law, with this dependence on ethnocultural assumptions, thus ultimately failed to establish an effective means of managing the foreign resident population.

Exacerbating the shortcomings of the Foreigners Law, developments on the international political scene in the early 1990s reinforced the need for a thorough and progressive German immigration policy. The dissolution of the Soviet Union, combined with the war in Yugoslavia, led to an unprecedented influx of refugees into Germany (440,000 in 1992).⁴⁹ At the same time, reunification with East Germany, which was characterized by widespread economic stagnation and social isolation, created fertile grounds for racism and xenophobia. These events thus produced criticisms of German asylum policy and an explosion of anti-foreigner violence. According to the Federal Office for the Protection of the Constitution, “2,351 violent incidents of racism took place in 1991” alone.⁵⁰ One of the more notorious incidents, the Rostock riots of 1992, resulted in more than 1,000 extremists attacking homes for refugees and asylum seekers.⁵¹ Similar attacks occurred in Saxon Hoyerswerda in September of 1992, in Mölln in November of 1992, and in Sollingen in May of 1993.⁵² In response to both

⁴⁸ Marshall, *Europe in Change*, 14.

⁴⁹ Yuce, “Challenge of Becoming an Immigration Country,” 75.

⁵⁰ *Ibid.*, 76.

⁵¹ Chapin, *Germany for the Germans?*, 102.

⁵² Chapin, *Germany for the Germans?*, 103 and Yuce, “Challenge of Becoming an Immigration Country,” 76.

these public demonstrations of disapproval and the undeniably large flow of refugees into the country, the German government amended the asylum law on June 1, 1993 by restrictively redefining refugee status. “These modifications caused a considerable decrease in the number of people who applied to be refugees in Germany” and thus helped to appease the anti-foreigner sentiment rampant amongst portions of the German population.⁵³ While this period began with the emergence of a promising new Foreigners Law, the unwillingness of the federal government to recognize its immigration status and the development of destabilizing international political events ultimately prohibited the establishment of an effective and comprehensive foreigner policy.

Despite this positive start to the decade, a combination of political unwillingness and unfortunate international events doomed the development of immigration and integration policy during this timeframe. Although the reformed statute did tacitly accept the permanent residency status of much of Germany’s foreign population, it also maintained several important restrictions. These restrictions derived from the fictitious understanding of Germany as a non-immigration country. Despite such popular sentiments, certain policymakers, such as Cornelia Schmalz-Jacobsen, continued to push for the rescission of the *jus sanguinis* citizenship model and the institution of various policy reforms. With the contemporary political climate characterized by the politicization of foreigner issues, however, the policy establishment proved unwilling to take such a paradigmatic step.⁵⁴

⁵³ Yuce, “Challenge of Becoming an Immigration Country,” 75.

⁵⁴ Klopp, *German Multiculturalism*, 47.

3.6- Post-1998: The New Nationality Act

The most recent phase of immigration and integration policy development in Germany has produced a paradigmatic shift in foreigner policy. The end of the sixteen-year Kohl government in 1998 and the ascension of the new Social Democrats/Greens coalition created “new political openings” for policy reform in Germany.⁵⁵ Marielouise Beck, the new commissioner of foreigner affairs and a member of the Greens, had, along with her fellow party-members, consistently reiterated the need for comprehensive immigration and integration policies.⁵⁶ The new ruling coalition, due largely to the influence the Greens, thus enacted the new Nationality Act on January 1, 2000. First and foremost, the new statute, by recognizing that “Germany is undergoing an irreversible process of immigration,” addressed the fundamental deficit in traditional German foreigner policy.⁵⁷ Largely as a result of this explicit recognition, the Nationality Act implemented an attenuated *jus soli* principle that signified a fundamental break from the *jus sanguinis* model that had characterized German citizenship for nearly a century. Although the new Social Democrats/Greens coalition government intended to implement radical citizenship reform by instituting a pure *jus soli* model, the Christian Democratic opposition forced a compromise. Claiming that such reform would create an unacceptable situation of dual loyalties, the opposition successfully lobbied for a “watered-down version” of the more radical reforms initially proposed by the ruling coalition.⁵⁸ The result was the institution of an “option model” that allows children born

⁵⁵ Ibid., 78.

⁵⁶ Klopp *German Multiculturalism*, 47.

⁵⁷ Yuce, *Challenge of Becoming an Immigration Country*, 78.

⁵⁸ Klopp, *German Multiculturalism*, 50.

to non-German parents to hold a German passport and a passport of their parents' nationality until the age of twenty-three. At the age of majority, however, the individual must either decide to retain their German citizenship or their native citizenship. While the Nationality Act undoubtedly represents a dramatic transformation of German immigration and integration policy, it still maintains an undeniable ethnocultural edge by demanding potential citizens to officially renounce any non-German identities.

The legacy of ethnoculturalism, however, more plainly manifests itself in the maintenance of a culturalized conception of German citizenship in the Nationality Act. As intended, the statute's liberalizations have increased the percentage of foreign residents capable of satisfying the explicit requirements of German citizenship. Despite the progressiveness of the new statute, however, it has proven impossible to completely disconnect the Nationality Act from its ethnocultural heritage. Indeed, the former Federal Minister of the Interior Otto Schilly implied in his introduction to the Nationality Act that naturalization inherently entails an accompanying process of cultural conversion (especially in the context of ethnocultural conceptions of citizenship).⁵⁹ While superficially progressive, the Nationality Act in actuality reflects traditional ethnocultural norms by including an implicit cultural demand. By hinging naturalization on the willingness of applicants to surrender their native identities in favor of an association with German culture, the Nationality Act still maintains a strong undercurrent of ethnocultural sentiment.

⁵⁹ Otto Schilly, Foreword to the booklet "Staatsangehörigkeitsrecht", published by the Official Federal Government Representative for Matters relating to Foreigners, Federal Ministry of the Interior, Press and Information Office of the Federal Government, August 1999.

The primary aim of the Nationality Act, according to its drafters, was to facilitate the formal incorporation (naturalization) of the foreign resident population by lowering barriers to citizenship. By naturalizing a large portion of this population, policymakers believed that the Nationality Act would serve as a powerful tool of structural integration. Increased access to citizenship, however, does not in itself necessitate political integration. Indeed, as scholars have noted, the inclusiveness or exclusiveness of national politics towards ethnic minorities is defined by both access to citizenship *and* the cultural obligation that such access obligates an individual.⁶⁰ In culturally pluralistic societies, this second dimension, the cultural obligation attached to naturalization, represents a non-factor as such systems permit a wide degree of cultural variation. In contrast, however, assimilationist countries, such as Germany, “require a full conversion to the dominant culture as the single and unitary ideological focus of belonging and membership.”⁶¹ In the German context, the implicit cultural demands of the Nationality Act provide the practical means through which this conversion is both mandated and enforced.

⁶⁰ Ruud Koopmans and Paul Statham, “Political Claims-Making against Racism and Discrimination in Britain and Germany,” in *Comparative Perspectives on Racism*, ed. Jessika ter Wal and Maykel Verkuyten (London: Ashgate Publishing, 2000), 146.

⁶¹ Ibid.

Chapter 4: *The Impact of the Nationality Act*¹

4.1- *Introduction*

The Nationality Act which came into force on January 1, 2000, aimed to integrate Germany's systematically marginalized foreign resident population by relaxing citizenship standards. With an increased portion of this population eligible for naturalization under the liberalized standards of the statute, a cursory examination of the Nationality Act suggests that this policy has indeed succeeded. Such a conclusion, however, represents an acontextual and superficial understanding of the Nationality Act. As noted in Chapter 2, a historical examination of the history of German citizenship, specifically in relation to immigration, necessitates an analysis of the Nationality Act within a post-Marshallian context. This framework, as established in the previous chapter, transforms the ethnocultural conception of the nation-state, a definitive feature of German immigration and integration policy, from a unique and innocuous German tradition into a practical and effective mechanism of exclusion. The ethnocultural legacy inherent in the Nationality Act thus prevents the establishment of a modern, state-based citizenship regime. By continuing to demand that applicants satisfy the cultural obligations of citizenship necessitated by a traditional ethnocultural conception of the nation-state, the Nationality Act ultimately fails to escape from the long legacy of exclusivist foreigner policy in Germany. This implied cultural demand fundamentally challenges the Nationality Act's ability to facilitate the desired process of structural integration.

¹ The data used in this chapter, unless otherwise noted, were made available by the German Socio-Economic Panel Study (GSOEP) at the German Institute for Economic Research (DIW), Berlin.

Indeed, the 2004 wave of the German Socio-Economic Panel Study revealed that, despite concrete policy liberalizations, nearly 80 per cent of the seemingly eligible foreign resident population still reported no intention to naturalize. Despite the systematic exclusion of the immigrant population throughout German history, an overwhelming percentage of foreigners proved unwilling to accept naturalization as a means of inclusion. This chapter attempts to address this puzzle by examining the impact of the Nationality Act on the three composite elements of structural integration. By observing variations in numerous quantitative indicators of structural integration both before and after the enactment of the Nationality Act in 2000, this chapter allows for a determination of probable explanations for this incongruity. Based on May's conceptualization of structural integration, the next three sections examine representative indicators of "status and prestige, rights and power [and] access to material and immaterial goods," respectively.² Accordingly, section one begins by looking at various indicators of the status of the cultural integration of the foreign resident population. Section two then examines some quantitative measures of the degree of political integration of a representative sample of foreign residents. Finally, section three considers a variety of indicators of economic integration. Together, these three sections provide a comprehensive quantitative examination of the progress of structural integration both prior to and after the enactment of the Nationality Act on January 1, 2000. These data, in turn, provide this study with the ability to reconcile the increase in

² May, "Theories of Integration Revisited," 6.

access to naturalization with the decrease in the foreign resident population's expressed intention to naturalize.

Although the Nationality Act attempts to facilitate the integration of the foreign resident population by increasing access to naturalization, it, as the above-mentioned data-point suggests, by no means guarantees the success of this process. The Nationality Act, while relaxing many key naturalization standards, still demands prospective applicants to satisfy a number of significant requirements. These requirements, in turn, affect the availability of citizenship and subsequently impact the integration process. Without widespread eligibility among the foreign population, the Nationality Act can not facilitate the general process of structural integration that its proponents envisioned. To fully understand the impact of the Nationality Act on the structural integration of the foreign resident population it is therefore necessary to consider this quantitative data within the institutional framework established by the statute.

The complex requirements and demands of the Nationality Act thus provide a context for the examination of quantitative data in this chapter. As of January 1, 2000, those individuals born in Germany to foreign parents with at least eight years of residency or in the at least the third year of an unlimited residence permit and those foreigners residing within the state for eight or more years and possessing a legal right to residence gained an entitlement to citizenship application. Those individuals obtaining naturalization eligibility through length of residence must establish their commitment to the free democratic constitutional system of the German Republic, demonstrate an adequate knowledge of the German language, prove their unlimited right to residence

within the country, establish their ability to support themselves and their dependents without recourse to benefits, forfeit any previous citizenships, possess no criminal record and pay a significant application fee.³ For individuals born after the enactment of the Nationality Act in 2000 to foreign parents with at least eight years of residence or in the third year or later of an unlimited residence permit, German citizenship will be accorded automatically upon birth. This partial *jus soli* element is complemented by an “option model,” which requires those acquiring citizenship through this channel to opt for either their native citizenship or their German citizenship once they reach the age of majority. In addition, the Nationality Act contains a transitional provision for children under ten years of age that entitled this population, up until December 31, 2000, to citizenship under the partial *jus soli* principle. These various requirements and demands provide this chapter with a range of institutional constraints that act as the framework for the determination of structural integration.

In addition to these explicit, logistical demands, a deeper understanding of the Nationality Act reveals an important implicit requirement. As Otto Schilly, the former Federal Minister of the Interior, stated in the foreword to the statute, “The new framing of the German nationality law cannot bring about integration on command.”⁴ Since integration is a two-way street, he continued, naturalization demands certain minimum requirements. Schilly’s association of naturalization with integration derives from Germany’s traditional ethnocultural approach to citizenship and, accordingly, imbues the

³ Federal Ministry of the Interior of Germany, “The Modern Nationality Law,” <http://www.bmi.bund.de> (accessed December 20, 2006): section 2 and 4.

⁴ Otto Schilly, foreword to the booklet “Staatsangehörigkeitsrecht”, published by the Official Federal Government Representative for Matters relating to Foreigners, Federal Ministry of the Interior, Press and Information Office of the Federal Government, August 1999.

Nationality Act with an implicit cultural demand. In the context of the history of German foreigner policies, the Nationality Act maintains traditional ethnocultural assumptions in the form of this cultural requirement.

For the most part, Germany's foreign resident population demonstrates both the requisite (explicit) eligibility and willingness demanded by the Nationality Act. At the same time, however, the Nationality Act has largely failed to induce mass naturalizations. This incongruity suggests that shallow readings of both naturalization requirements and foreign resident eligibility fail to grasp the underlying cultural factor. In this light, this chapter attempts to observe the impact of the Nationality Act on the propensity of the foreign population to naturalize and, in turn, integrate. Since explicit naturalization requirements and willingness to formally integrate do not appear to be prohibitive obstacles, this section begins with an examination of the cultural orientation of the foreign resident population in the context of the implicit cultural demands of the statute. After determining the cultural eligibility of this population, this chapter continues with examinations of political and economic integration, specifically in relation to the Nationality Act's implicit cultural requirements. Together, the following analysis of empirical data examines the impact of the Nationality Act on the structural integration of the foreign resident population and attempts to explain this statute's inability to affect widespread structural integration.

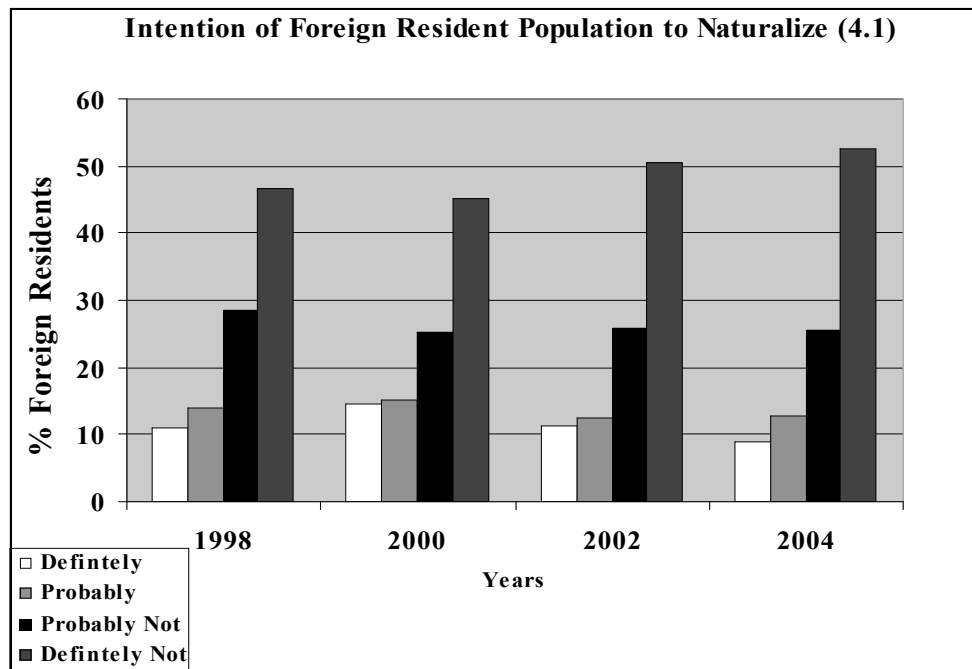
4.2- Cultural Integration

The substantial requirements associated with naturalization necessitate that any prospective applicant must conform to the specific stipulations established by Section 8

of the Nationality Act. The application process thus requires such individuals to demonstrate a wide array of distinct attributes, including, for example, a minimum length of residence or financial self-sufficiency. In addition to such explicitly defined qualifications, the Nationality Act also implicitly demands that the applicant demonstrate a willingness to assimilate into German society. Although the only explicitly mentioned cultural requirement is German language proficiency (which itself can be viewed as a logistical requirement), Schilly's foreword to the statute reveals the legacy ethnoculturalism that undergirds the Nationality Act. In this institutional context, the cultural orientation of the foreign resident population can provide an indication of the eligibility of this population based on their connection with ethnic identities. This section examines a range of cultural indicators, such as feelings of Germaness and identification with countries of origin, which objectively depict the cultural association of the foreign resident population and thus allow for a determination of the cultural eligibility of this population. In addition, this section studies several other cultural indicators, such as social contact with native Germans and usual language spoken, to determine the impact of the enactment of the Nationality Act on the cultural orientation of this population. Accordingly, this section follows a two-pronged blueprint by observing indicators of both cultural eligibility and cultural convergence (although these indicators do largely overlap). By observing the status of the foreign population relative to the status of the native population, this examination provides the foundations for an analysis of the impact of the Nationality Act on the cultural integration of the foreign resident population.

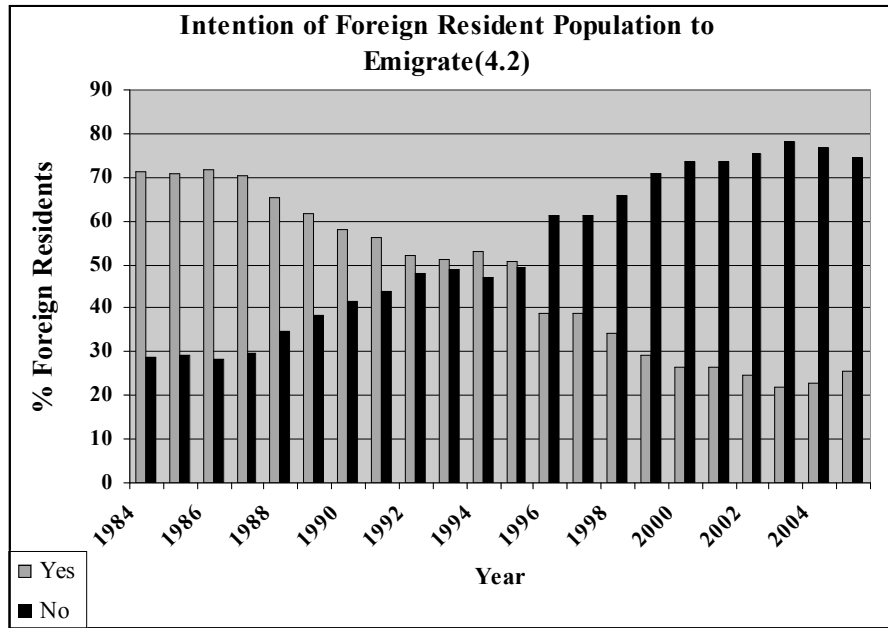
An examination of the intention of a representative sample of seemingly-eligible foreign residents to naturalize isolates the implicit cultural element by assuring compliance with the explicit requirements contained in the Nationality Act. This indicator also provides a straightforward indication of the willingness of this population to comply with the various demands and requirements enumerated in the Nationality Act. For those individuals reporting no intention to naturalize despite an ability to satisfy the explicit demands of the statute, the understood cultural conversion demanded by the statute most likely acts as a prohibitive obstacle to naturalization. An examination of the data suggests a widespread reluctance among the eligible foreign resident population to apply for German citizenship both before and after the enactment of the Nationality Act in 2000. In 1998 just under 25 per cent of the eligible foreign resident population reported that they would either “definitely” or “probably” apply for German citizenship with over 75 per cent responding that they would either “definitely not” or “probably not” seek citizenship. Despite the Nationality Act’s elimination of many obstacles to acquiring citizenship, its passage in 2000 did not lead to any significant increase in the number of respondents replying affirmatively to this question. Although for the year 2000 just over 30 per cent of respondents did either “definitely” or “probably” plan on applying for citizenship, this number would fall back down to levels significantly lower than the 1998 level in subsequent years. By 2004 only around 21 per cent of respondents reported some desire to apply for German citizenship while an astonishing 78 per cent stated that they did not intend to seek German citizenship (see Graph 4.1). Despite the apparent eligibility of this population, an overwhelming segment asserted no intention to

naturalize. To reconcile these facts it is important to look at both the potentially prohibitive aspects of application and the possibly unwanted effects of naturalization. From this perspective, the failure to meet the implicit cultural requirements of the Nationality Act and certain perceived disadvantageous ramifications of naturalization emerge as means of resolving this apparent incongruity.



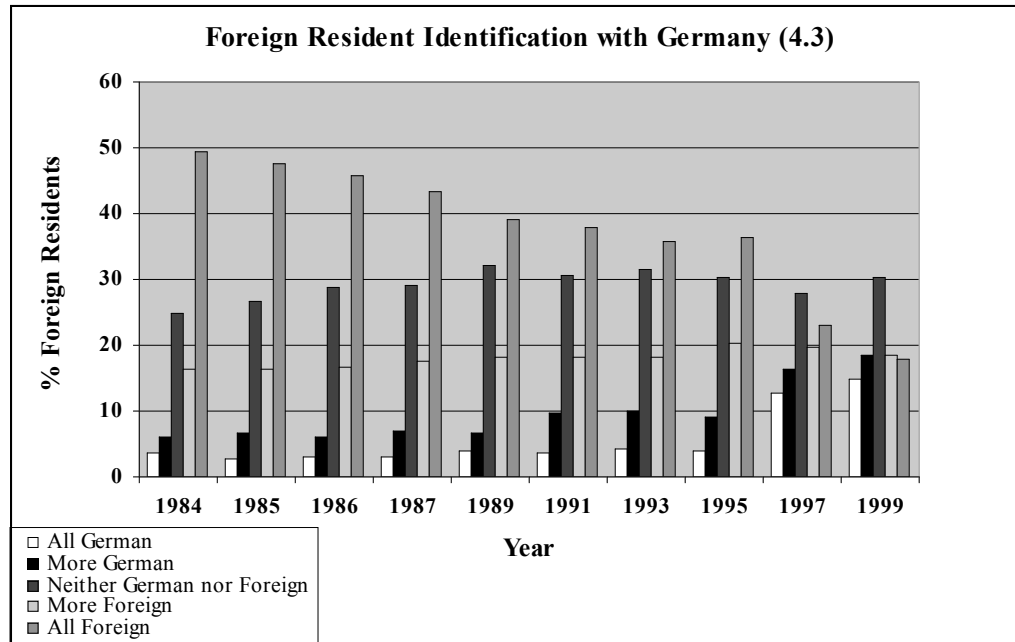
The most obvious reason behind this surprising disinclination lies in the potentially unwanted side-effects of naturalization, specifically the forfeiture of previous citizenships. For those individuals meeting the requirements of the Nationality Act, even an undeveloped or wistful desire to emigrate can represent a prohibitive obstacle to naturalization. According to the Nationality Act, a foreign resident must be able to demonstrate eight years of consecutive residence to qualify for naturalization. For those foreign residents intent on returning to their native countries, naturalization, with its

accompanying forfeiture of previous citizenships, simply represents an impractical option. Historically, a significant proportion of the foreign resident population has harbored no desire to permanently reside within Germany. In 1984 the percentage of foreign residents intending to return to their native countries peaked at over 71 per cent. This number, however, would steadily decline and would finally hover around 25 per cent during the post-2000 years (see Graph 4.2). Despite this drastic decrease in respondents intending on returning home, this comparatively small portion still helps to explain the reluctance of at least a segment of the overwhelming majority of the eligible population that refuses to naturalize. More importantly, however, the intention of this population to remain in Germany suggests that, in this context, the costs of naturalization, such as cultural demands, more so than the results of naturalization, such as citizenship forfeiture, act as significant impediments to naturalization. As a result, the Nationality Act must prove capable of overcoming these costs if it hopes to facilitate a widespread process of structural integration.



Considering the permanency of most of this population’s intended residence and the ability of this population to meet explicit requirements, the fraction of individuals that actually desire to obtain German citizenship seems to suggest that a large segment of this population fails to satisfy the cultural requirements implicit in the Nationality Act. Indicators of the degree of connection felt by the foreign resident population towards the country of Germany reinforce this supposition. The fifteen-year time period prior to the enactment of the Nationality Act in 2000 illustrates a high percentage of foreign resident respondents indicating little or no connection with Germany. These reported sentiments elucidate the development of the cultural association of the foreign resident population. The percentage of this population that reported feeling “more foreign” or “all foreign” peaked in 1984 at well over 65 per cent. As the years pass, however, this number gradually dwindles until bottoming out with just over 36 per cent reporting similar sentiments in 1999. This trend suggests an increase in the number of foreign residents

identifying as German. At the same time, however, the number of respondents reportedly feeling “neither German nor foreign” has remained at near record levels with almost 31 per cent reporting such sentiments. These data suggest that, while the number of foreign residents feeling more foreign than German has decreased to about a third of the population, the percentage feeling “neither German nor foreign” has steadily increased during this same timeframe (see Graph 4.3). As a result, on the eve of the enactment of the Nationality Act in 2000, nearly 70 per cent of foreign resident respondents reported no cultural association with Germany. Although the lack of such a cultural association does not necessarily prohibit naturalization in light of the implicit cultural demand of the Nationality Act, it does intimate that the vast majority of the foreign resident population, at the very least, lacks any cultural impetus to naturalize. The expressed cultural association of this population suggests that cultural identity acts, in the best case, as a non-factor and, in the worst case, as a powerful force that compels the individual to avoid naturalization.

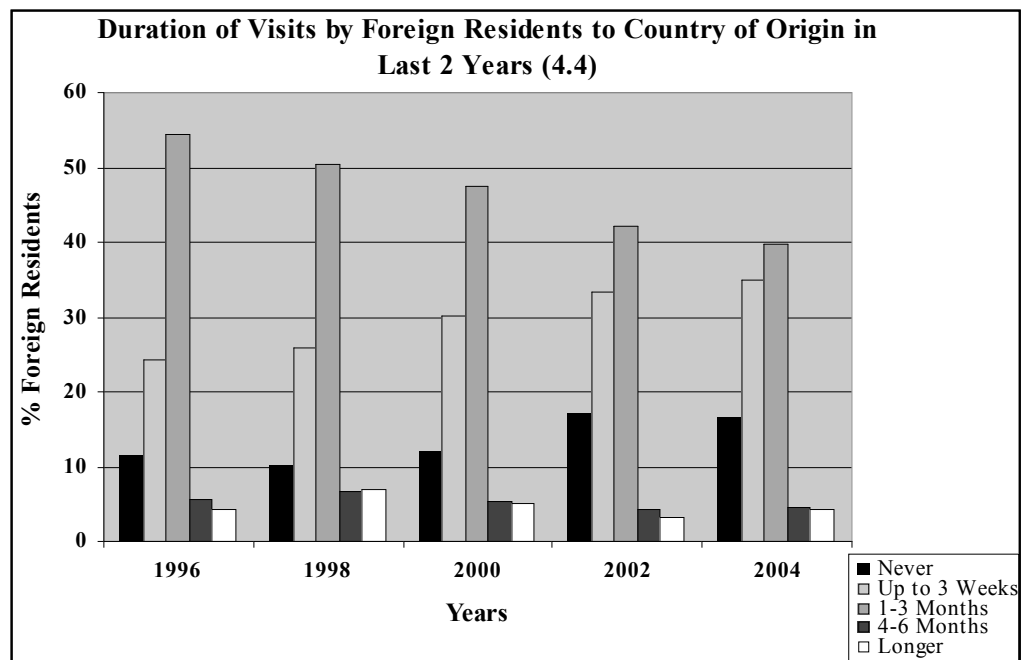


Although the Nationality Act did ease naturalization standards, the statute still demands prospective applicants to display their compliance with several requirements. The proportion of the seemingly eligible foreign resident population that expressed no intention to pursue naturalization hints at the less obvious demands of the Nationality Act. These demands arise at both ends of the naturalization process, specifically application and acceptance. Acceptance of German citizenship after a process of naturalization forces the foreign resident to formally forfeit any previous citizenship and thus essentially bars any future emigration. The permanency of the majority of this population, however, suggests that this factor, although important, is not the primary motivating dynamic behind the reluctance to naturalize. Rather, an examination of the cultural association of this population reveals that a majority of foreign residents fail to meet the implicit cultural requirements of the Nationality Act. Instead of identifying with Germany, this population exhibits cultural associations that, to a great extent, prohibit

naturalization. The success of the Nationality Act at facilitating structural integration ultimately depends on the convergence of the cultural identifications of the native and foreign populations. Not until these cultural associations converge upon some mutual ground will the native population relinquish its demand of cultural homogeneity and will the foreign resident population exhibit a willingness to become “German.”

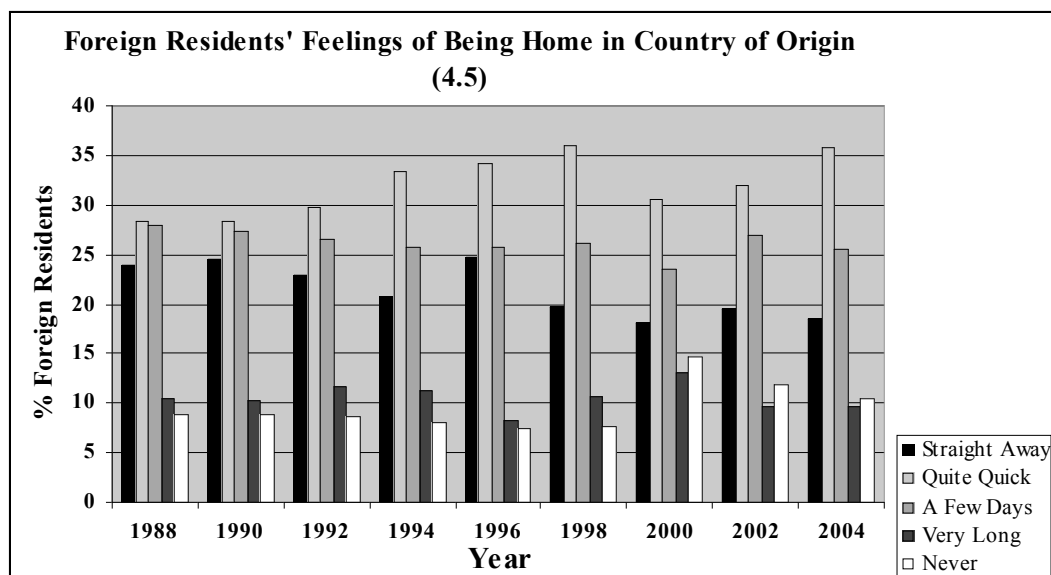
The foreign resident population, rather than associating with Germany, often identifies with either their respective country of origin or with no state at all. The visiting habits of this population to their native countries represent the first indicator of the lack of connection between the foreign population and their adopted homeland. For the four years before and the four years after the institution of the Nationality Act in 2000 the vast majority of this population reported extended visits to their native countries during the previous two years while only around 10 per cent consistently reported not visiting. During this eight-year period, well over a majority of these visits, nearly 57 per cent, lasted longer than a month. By 2004 only about 84 per cent reported visiting and of these visits just under 50 per cent were longer than a month. While it is possible that the gradual decline in the frequency and duration of visits stems from the liberalization of naturalization requirements, this trend does not correlate with the enactment of the reforms and thus suggests independent causation. Even with this downward trend, the data still suggest that the foreign resident population remains only incidentally connected with Germany (see Graph 4.4). Frequent trips of extended duration not only suggest strong ties to native homelands, in the form of family, friends, property, etc., but they also intimate the possibility, even if a far-fetched and undeveloped one, of eventually

emigrating. These data thus illustrate the often superficial connection between the foreign population and their adopted homeland. In this context, the assimilation demanded by the Nationality Act represents both a forfeiture of dreams of return and a cultural surrender to German cultural hegemony. As a result, despite the increased access to citizenship produced by the Nationality Act, prohibitive obstacles still exist that prevent this population from naturalizing and, in turn, integrating.



Indeed, an examination of the sentiments of this population during these visits supports the connection of such visits with the cultural association of the individual. The reported sentiments of belonging during such visits thus serve as the second indicator of the cultural association of this population. In 2004, nearly 80 per cent of this population reported feeling at home in their native countries within at least a few days after arriving, which was in line with the previous fourteen-year average of just over 79 per cent (see

Graph 4.5). Over this same span, the proportion of individuals that reported “never” feeling at home in their country of origin rarely peaked over 10 per cent. With only a small minority of individuals that engage in such visits reporting an inability to “feel at home,” the vast majority of this population necessarily exhibits some kind of association with their country of origin. In order to naturalize, the foreign resident population must associate first and foremost with Germany. The close associations with countries of origin that this population reported, however, suggest that connections to Germany are largely accidental and superficial. In the face of the implicit cultural demands of the Nationality Act, these data assert that foreign residents will, for the most part, prove unwilling to make the cultural and identity-based sacrifices demanded by the assimilationist implications of the statute. With a significant segment of the foreign resident population largely unwilling or unable to naturalize, the Nationality Act will unavoidably fail to facilitate the desired process of structural integration. Only after a process of cultural integration and convergence will this population prove able to meet the implicit demands of the Nationality Act and will the Nationality Act therefore prove capable of expediting this process of structural integration.



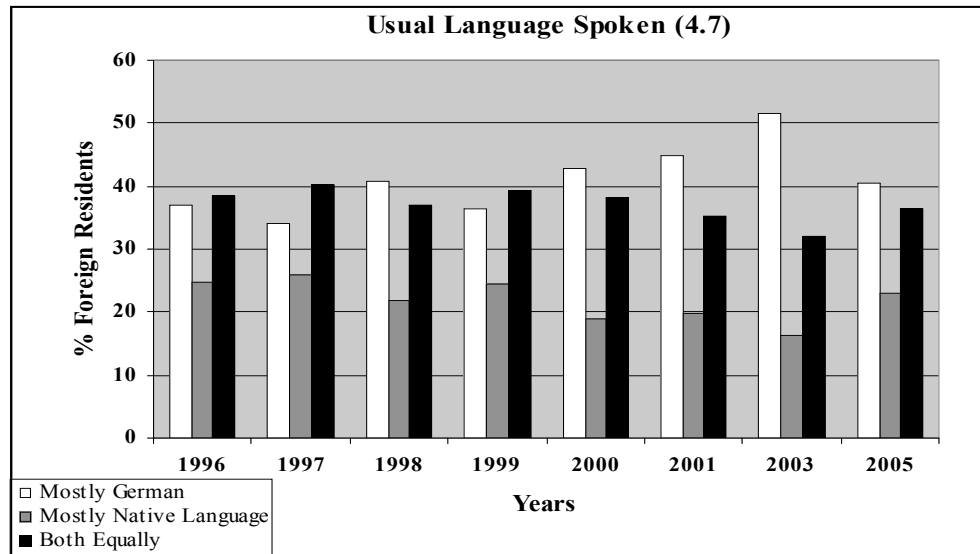
The cultural association of this population is also reflected in their domestic social interactions. The social tendencies of the foreign resident population thus serve as the third indicator of their cultural association. The tendency of this population to associate with non-German identities prior to any Germany identity reflects quite clearly in the social habits of many foreign residents. Often identifying primarily with their ethnic identities, a significant portion of this population socializes almost exclusively with fellow foreign residents. Although the majority of this population has lived in Germany for an extended number of years and expresses no intention to leave, an average of just under 22 per cent of this population reported not visiting a single German even once during the previous year. Both before and after 2000, this figure remained quite stable; typically hovering in the lower half of the twentieth percentile (see Graph 4.6). The constancy of these figures both before and after 2000 suggests that the Nationality Act has failed to induce the desired process of convergence. Even with only a fifth of the population responding to the question negatively, the fact that even this small segment

could completely avoid social interactions with native Germans for an entire year testifies to the potency of a non-German cultural identity. With such a significant proportion of this population interacting exclusively with similar individuals, the foreign resident population exhibits an undeniable isolation from mainstream society. At the same time, however, the Nationality Act implicitly demands that these individuals identify with mainstream society in order to qualify for naturalization. As a result, the cultural association of this population represents a prohibitive impediment to the satisfaction of the implicit cultural demands of the Nationality Act and thus ultimately inhibits the facilitation of structural integration.



Additionally, the linguistic behavior of the foreign resident population can provide an indication of the population's cultural association. As a result, the linguistic habits of this population, specifically the frequency of use of both German and foreign languages, serves as the fourth indicator of cultural association. This measure of frequency of use, as opposed to subjective self-estimates of proficiency, provides a good

indication of the cultural connection of the individual with their non-German identity. While between 1996 and 2005 an average of just over 40 per cent of foreign resident respondents reported speaking mostly German, close to a quarter of this population admitted to conversing exclusively in their native tongue (see Graph 4.7). The large segment of the population that admitted to an exclusive usage of a foreign language, most likely, exhibits a significant association with a non-German identity. Even for the 37 per cent that, on average, reported speaking both German and their native language equally, the dependence on this foreign language often derives from a strong identification with a non-German culture. These figures remained stable both before and after the enactment of the Nationality Act in 2000 thus suggesting that the policy liberalizations produced no significant impact on the linguistic behaviors of the foreign resident population. With well over half of the relevant population exhibiting strong linguistic ties to their native countries and with the Nationality Act affecting no noticeable change, a large segment of the foreign resident population undoubtedly lacks any significant cultural association with Germany. As a result, a significant segment of this population inevitably fails to meet the cultural demands implicit in the Nationality Act and thus will prove unable to naturalize despite the liberalized demands of the statute.

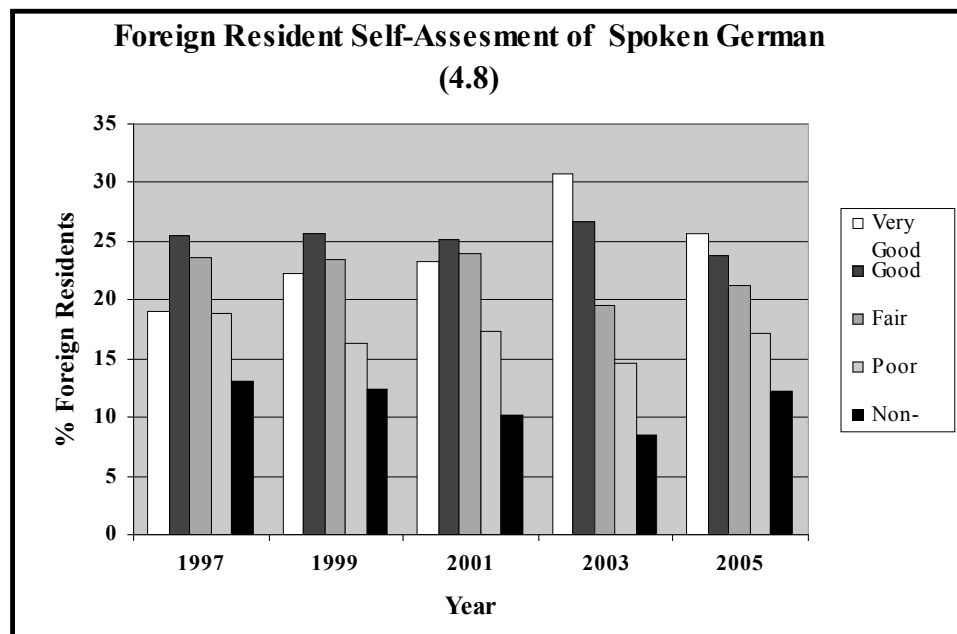


Although indicators of a significant association with non-German identities do not by definition prevent naturalization, certain cultural aspects can entirely forestall this process. For instance, German language ability, the fifth indicator of cultural association, represents a necessary component of naturalization. The Nationality Act establishes the central role of the German language by mandating the ability to “conduct conversations commensurate with one’s age and education” as a requirement for naturalization applicants.⁵ Between 1997 and 2005, on average just under half of respondents reported either a “good” or “very good” grasp of spoken German. This means that during this time span over half of the foreign resident population thought their German language skills were at best “fair” with nearly a third of the population during this time span reporting either “poor” or “non-existent” German language ability (see Graph 4.8). The subjective self-estimated proficiency of the foreign resident population indicates that, for a large percentage of individuals, the language requirement could prove a prohibitive

⁵ Federal Ministry of the Interior of Germany, “The Modern Nationality Law,” section 2.

obstacle to naturalization. In addition, an inability to speak German effectively prohibits a given individual from communicating and interacting with German society.

Consequentially, poor German language ability among the foreign population guarantees this population's exclusion from German society and, in turn, solidifies their association with non-German identities. Language skills therefore prove essential to the convergence required to translate the Nationality Act from an impotent statute to a feasible avenue for structural integration.



Although the Nationality does greatly relax naturalization standards in Germany, the statute still demands prospective applicants to meet certain requirements. Perhaps most overlooked, the Nationality Act implicitly contains an assimilationist cultural obligation. Accounting for the impact of this implicit requirement helps reconcile the surprising incongruity between the eligibility of foreign residents and the actual intention of this population to naturalize. This section, after looking at several indicators of

cultural association, finds that a significant segment of the foreign resident population identifies strongly with non-German cultures. In the institutional context established by the undergirding ethnocultural philosophy of the Nationality Act, prospective applicants must prove willing to assimilate into German cultural life. This inevitably produces a stalemate between foreigners able to meet the explicit demands of the Nationality Act but intent on maintaining their cultural heritage and popular German sentiment that still, to a great extent, connects citizenship with cultural identity. While the majority of the foreign resident population's hesitancy to naturalize derives from this cultural divide, this section also finds that, in a more practical way, poor language ability among this population can represent a significant obstacle to naturalization. It appears that the enactment of the Nationality act has done little to address either of these possible sources of ineligibility. If the Nationality Act is to produce integration through eased naturalization standards, it first has to recognize the incongruity between the cultural expectations of the statute and the cultural reality of the foreign population. Although the Nationality Act attempts to address integration through political means, it is ultimately the cultural associations of the native and foreign populations that will determine the success of this policy. Without the convergence of cultural identities, naturalization and, as a result, integration will not represent a viable option for this population. With the Nationality Act no longer producing large naturalization rates and with its enactment failing to facilitate any convergence between the cultural positions of natives and foreigners, these liberalizations have ultimately failed to produce the intended end-result, specifically widespread structural integration

4.3- *Political Integration*

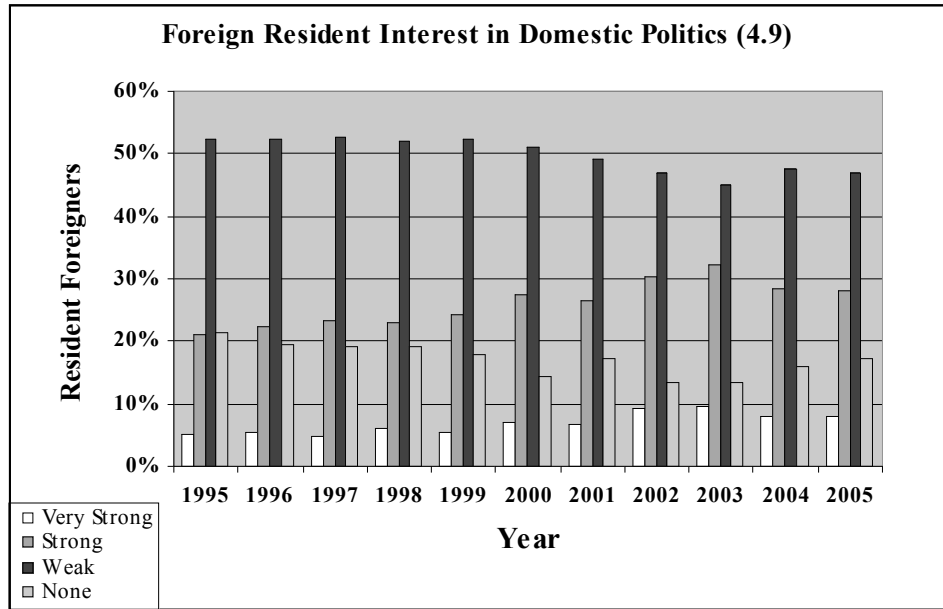
Although cultural identification primarily affects the integration process prior to any decision to naturalize, the political behavior of the foreign resident population mostly affects integration after naturalization. Except for the motivational desire for political inclusion, almost no implicit or explicit political requirements are contained in the Nationality Act (Section 8 does prohibit naturalization for those committed to subverting the democratic political system, but this condition affects a negligible portion of the population). The Nationality Act therefore interacts with political integration, in the sense of formal political rights and power, primarily after an individual naturalizes. By facilitating formal incorporation into the polity, the Nationality Act aims to increase the political participation and interest of the foreign resident population. This section thus examines variations in several indicators of interest in political inclusion, such as actual interest in German politics and participation in political initiatives, for example. By observing these indicators, this section aims to determine whether the enactment of the Nationality Act on January 1, 2000 has induced a process of political integration among the foreign population. In addition to observing indicators of political integration both before and after the enactment of the Nationality Act, indicators of the current nature of the political engagement of the foreign population are observed as a means of determining this population's propensity to become politically active in the future. Since active political engagement does not necessarily stem from increased access to citizenship, these measures of the inclination towards active involvement allow for a more accurate determination of the Nationality Act's impact on political integration.

While basic political integration is the primary goal of the statute, active involvement proves necessary if the Nationality Act is expected to induce a wider process of structural integration.

The intended process of political integration assumes the existence or development of a general interest in domestic German politics after naturalization. The first indicator of the progress of political integration is thus the interest of this population in German politics. During the eleven year span between 1995 and 2005, only 7.5 per cent of those individuals initially identifying in the survey as foreign reported a “very strong” interest in domestic politics (see Graph 4.9). Despite this alarmingly low interest in politics, there does appear to be a slight increase in political interest after the passage of the Nationality Act in 2000. Prior to its passage, barely 28 per cent of this population reported either a “very strong” or “strong” interest in German politics; however, after 2000, an average of about 37 per cent reported similar sentiments. With those individuals that eventually obtain citizenship still represented in the survey’s foreigner sample, this growth in interest most likely derives from the surge in naturalizations that initially followed the enactment of the Nationality Act in 2000. This increase indicates that the greater availability of citizenship produced by the Nationality Act did indeed generate a limited increase in political interest among the target population. Compared to the native German population’s reported interest in politics (around 68 per cent in 2004), which represented the highest such figure in all Europe, however, the percentage of foreign residents expressing an interest in politics still appears relatively low. Despite this marked disparity within Germany, these foreign resident political interest figures are

higher than native interest figures in many countries, including Hungary, the Czech Republic, Slovenia, Poland, Spain and Finland to name just a few.⁶ Although the foreign resident population exhibits a substantial interest in politics, the decelerating nature of this increase coincides with the stabilization of naturalization rates that occurred after the initial post-2000 explosion. This establishes a firm connection between naturalization and political interest. As a result, although the passage of the Nationality Act in 2000 has increased interest in politics, the reticent approach of this population toward naturalization ensures that such increases will remain both gradual and modest without a resurgence of foreign resident naturalization rates. Unsurprisingly, the Nationality Act can only facilitate political integration if the target population first demonstrates willingness and eligibility. As these data illustrate, the ability of the Nationality Act to produce political integration is circumscribed by the foreign resident population's inability to comply with both the implicit and explicit demands of the statute.

⁶ Zentralarchiv für Empirische Sozialforschung, "Internationale Sozialwissenschaftliche Umfrage 2004: Bürger und Staat," <http://zacat.gesis.org/webview/index.jsp?object=http://zacat.gesis.org/obj/fStudy/ZA3950>, (accessed February 28, 2007).

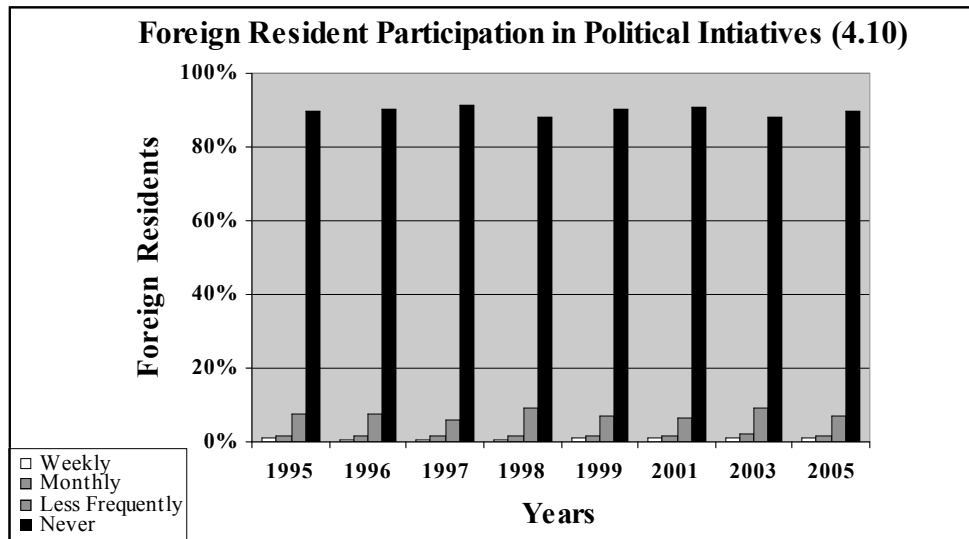


Although political interest provides a necessary foundation for the process of political integration, this process also demands the more active involvement of the foreign resident population. Active involvement, in many ways, requires an individual to possess citizenship, as, without the rights and duties that accompany citizenship, a foreign individual will largely lack the political capital needed to become a significant political actor. An observation of the actual political participation of the foreign resident population can thus help to determine whether increased access to citizenship has indeed produced greater political integration. The variations in the actual involvement of this population in political activities therefore provides the second indicator of political integration. Although the foreign resident respondents reporting either a “very strong” or “strong” interest in politics reached over 40 per cent in 2003, those actually reporting an involvement with some form of political initiative or activity was drastically lower. Indeed, from 1995 to 2005 around 90 per cent of this population admitted to having

absolutely no involvement in any sort of domestic political activity (although many scholars recognize the propensity of the foreign resident population to participate in political movements oriented toward homeland issues, only domestic political participation proves relevant in an observation of integration efforts).⁷ Unlike the expressed interest of this population in German politics, this number fluctuated only three percentage points over this ten-year span (see Graph 4.10). While increased access to citizenship may contribute to a more acute interest in domestic politics, participation in domestic political initiatives proved unaffected by the relaxation of citizenship standards. This differentiation between the Nationality Act's impact on passive and active indicators of political integration can, however, be explained, at least partially, by the typically delayed appearance of indicators of active participation. Although naturalization can spur a more immediate interest in politics, its promotion of actual participation is more deferred and unpredictable. While the increased access to citizenship has resulted in more interest in politics, it has not, and does not necessarily, have to produce an increase in active participation. Although the Nationality Act has positively affected the passive political disposition of the foreign resident population, it has done little, so far, to actually foster the active political incorporation of this population. Even though the absence of any relationship between the Nationality Act and participation in political initiatives does not mean the failure of the statute to facilitate political integration, it does indicate that, to this point, any political integration that has been generated has been primarily shallow

⁷ Ruud Koopmans and Paul Statham, "Political Claims-Making against Racism and Discrimination in Britain and Germany," in *Comparative Perspectives on Racism*, ed. Jessika ter Wal and Maykel Verkuyten (London: Ashgate Publishing, 2000), 153.

and passive. Essentially, the divergence between expressed interest and actual participation in politics suggests that the increased access to citizenship produced by the Nationality Act has, to a great extent, failed to more substantively integrate the foreign population into German political life.



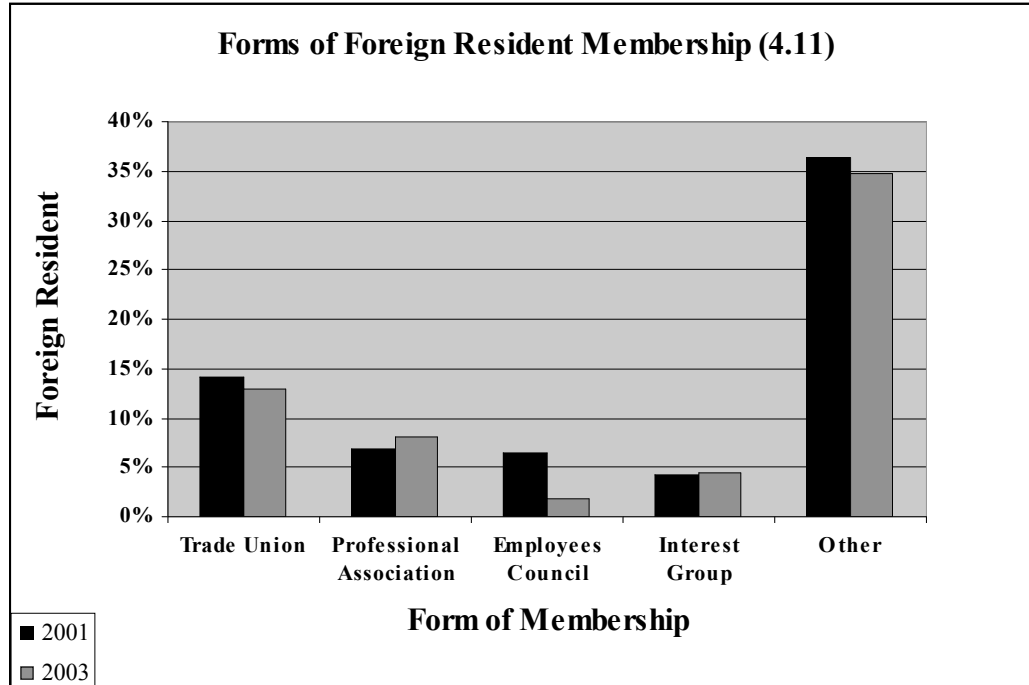
While the foreign resident population exhibited little involvement in any political initiatives, involvement in local civic organizations can prove both more feasible and effective. Such organizations do not require citizenship, typically appeal to the particular interests of the population, have more local roots and, in many ways, resemble higher political organizations. Civic organizations can therefore provide a useful indicator of the tendency of the foreign resident population to become more substantively engaged in political activities after naturalization. The relative representation of foreigners in civic organizations and the nature of these organizations thus provide the third indicator of political integration. Unsurprisingly, in 2002 the rate of membership in civic associations (including trade union, party, sport association or citizen committee) among the foreign

resident population, at around 31 per cent, was significantly lower than the rate of membership among the native German population at just over 50 per cent.⁸ The significant differential between native and foreign membership appeared stable both before and after the enactment of the Nationality Act in 2000. The Nationality Act then has not noticeably affected the representation of the foreign resident population in these organizations, which is not altogether surprising considering the openness of these organizations to citizens and foreigners alike. Since active civic participation “is related to higher political and civic engagement,” the substantial interest of this population in civic organizations could translate into greater involvement in political initiatives.⁹ The forms these memberships assume, however, allow for a deeper understanding of the propensity of newly-naturalized foreigners to actively pursue politics. The general types of membership that foreign residents hold reveal that the majority of reported memberships are career-related. Indeed, the largest portion of foreign resident memberships consistently derives from participation in trade unions with over a third of memberships deriving from this source (see Graph 4.11). The second and third largest forms of foreign resident membership also stem from the workplace, with professional associations and employees councils representing the next two largest contributors. The final category of foreign resident memberships is not work related, but with fewer than five per cent consistently reporting membership in some form of interest group, this segment of the population proves largely negligible. The prevalence of work-related

⁸ Cyrus, Norbert, “Active Civic Participation of Immigrants in Germany,” Country Report Prepared for the European Research Project POLITIS (Oldenburg, 2005): 26.

⁹ Cyrus, “Active Civic Participation,” 31.

memberships again reflects the passive nature of the civic involvement of the majority of this population, as foreign resident membership in trade unions and other work-related organizations typically signifies little active involvement.¹⁰ As a result, the representation of foreigners in primarily passive civic organizations suggests that simply easing citizenship standards will prove incapable of overcoming the political marginalization of this community. The Nationality Act, while promoting a shallow political integration, fails to address the roots of exclusion and thus ultimately proves incapable of fostering a more general process of integration.



Although the type of organization can help to surmise the involvement of a given individual, studies of the actual active participation rate of the foreign resident population provide a more accurate indication of their involvement in civic organizations. This

¹⁰Ibid., 27.

measure of active involvement thus represents the fourth indicator of political integration. According to a general survey, about 29 per cent of Germans are voluntarily active in civic organizations, compared to only 12-19 per cent of resident foreigners.¹¹ These data thus verify the low active participation rates of the foreign resident population. These low membership rates and even lower active participation rates make it unlikely that the shallow political integration facilitated by the Nationality Act will eventually translate into more substantive political involvement. The Nationality Act will likely fail to facilitate the political integration of the foreign resident population in Germany, as the statute induces only superficial integration into German political life.

The actual voting patterns of the foreign resident population provide the most direct evidence of the political behavior of this population. Since complete political integration entails the active participation of the foreign resident population in the German political process, their voting patterns provide a good indication of political integration. An examination of the voting behavior of the foreign resident population thus provides the fifth and final indicator of the degree of political integration of this population. Unsurprisingly, native Germans expressed an intention to vote more often than citizens with immigrant origins. A representative Berlin survey revealed that an overwhelming 87 per cent of native Germans expressed an intention to vote, while, unexpectedly, the Turkish population, at an 83 per cent pace, represented the second most-likely ethnic group to go to the polls.¹² Despite the Turks' surprising propensity to vote, other ethnic groups reported much less enthusiasm for voting. Indeed, only 63 per

¹¹ Ibid., 31.

¹² Ibid.

cent of ethnic Russians reported any intention to vote. Although this suggests a wide range of voting behavior among ethnically non-German citizens, in every case the propensity to vote was higher for the native German population. Despite the discrepancy between ethnic German and ethnically non-German voting rates, these figures still attribute a relatively high intention to vote to the ethnically non-German population. While the tendency of ethnically non-German citizens to vote is, in all cases, lower than the tendency of ethnic Germans, the figures suggest that, given the chance, a significant segment of the foreign resident population expresses an intention to vote. These data appear unsurprising in light of the significant interest expressed by the foreign population in politics and thus help to verify this population's reported interest in German political life. Despite their incidental contact with German politics through civic organizations and voting, however, the foreign resident population has exhibited an inability to become more actively engaged in German politics. The increased access to citizenship produced by the Nationality Act has promoted shallow political integration while neglecting substantive involvement. The Nationality Act undoubtedly increases opportunities for naturalization, but has, to date, done little to affect the marginalization and isolation that prevents this population from becoming more influential political actors. As a result, the Nationality Act, which aims to facilitate political integration, has ultimately failed to achieve its goal. Without deep political integration, the statute proves largely incapable of affecting any wider process of structural integration as it ensures the native population a greater degree of political leverage.

The Nationality Act, if successful, should produce the most visible and immediate impacts in the political realm. By increasing the naturalization rate of the foreign resident population, the new citizenship policies should facilitate a process of political integration. Basic measures of the interest of the ethnically non-German population in politics do indeed suggest that this population harbors the requisite interest in German politics. Additionally, observations of the nature of the current political engagement of this population, such as degree and form of civic involvement, depict foreign involvement as largely passive. Although the lack of active political participation may reflect the freshness of the reforms, it more likely derives from the passivity that has traditionally typified foreign involvement. Either way, the superficial political integration of this population suggests that the Nationality Act has, to date, failed to facilitate any substantive process of political integration. A significant proportion of this population expresses an intention to vote, which reflects both the interest reported by this population in politics and the limited political integration produced by the Nationality Act. This limited or superficial political integration, however, ensures that the native German population will continue to possess a greater degree of political leverage than the foreign resident population. As a result, the Nationality Act has failed to produce political integration, as a convergence between the political rights and powers of the native and foreign populations proves impossible under these conditions. Without political integration, the Nationality Act, which is based upon this process, will inevitably fail to facilitate any wider process of structural integration.

4.4- Economic Integration

Although the Nationality Act primarily aims to promote the cultural and political integration of the foreign resident population, the integration process can not be completed without a degree of economic parity between the native and foreign populations. Not only is economic position an indicator of integration, but it also serves as a determinant of naturalization. The Nationality Act mandates that a prospective applicant must be “able to ensure his or her own subsistence and the subsistence of his or her dependants without recourse to benefits.”¹³ A large economic divide between the native and foreign population thus inhibits integration from both sides by preventing naturalization and creating economic disparity. In theory, the cultural and political integration produced by the Nationality Act should result in greater economic parity by more closely connecting the foreign resident population with mainstream German society. This section thus examines key indicators of economic position, such as unemployment rates and dependence on government transfers, both before and after the enactment of the Nationality Act on January 1, 2000. In addition, other indicators, such as foreign resident enrollment in vocational or training opportunities, allow for a determination of subtle signs of economic mobility among this population. Indicators in this chapter thus provide for an examination of both the impact of the Nationality Act on various economic measures over a number of years and the statute’s ability to actually facilitate economic convergence. This section therefore allows for a determination of whether the Nationality Act has, so far, encouraged economic integration, defined here as

¹³ Federal Ministry of the Interior of Germany, “The Modern Nationality Law,” Section 9.

access to material and immaterial goods, and if, based on observable variables, the act will facilitate such a process in the near-future.

The most fundamental indicator of the economic position of a population is a measure of that particular population's rate of unemployment. Without access to employment, the individual lacks any access to the material goods that define their relative economic position in society. In addition, the inability of a prospective applicant to demonstrate employment will most likely prevent them from satisfying the economic demands of naturalization. The unemployment rate of this population thus serves as the first indicator of economic integration. At the end of 2004, 4.3 million people were registered as unemployed in Germany and, of these individuals, .53 million were foreign residents.¹⁴ This meant that while 12 per cent of the German population was unemployed, around 20 per cent of the resident foreigner population reported such misfortune. An examination of the period from 1995-2005 reveals that these numbers are well within each segments average unemployment rate (see Graph 4.12)¹⁵. Indeed, the average rate of unemployment for the years prior to 2000, at just under 20 per cent, is nearly identical to the post-2000 rate. During this period, the rate of unemployment for the foreign resident population is consistently double the rate of unemployment for the German citizen population and does not seem to react at all to the enactment of the Nationality Act in 2000. Based on these unemployment figures, the foreign resident population is characterized by a comparatively weak economic position that not only

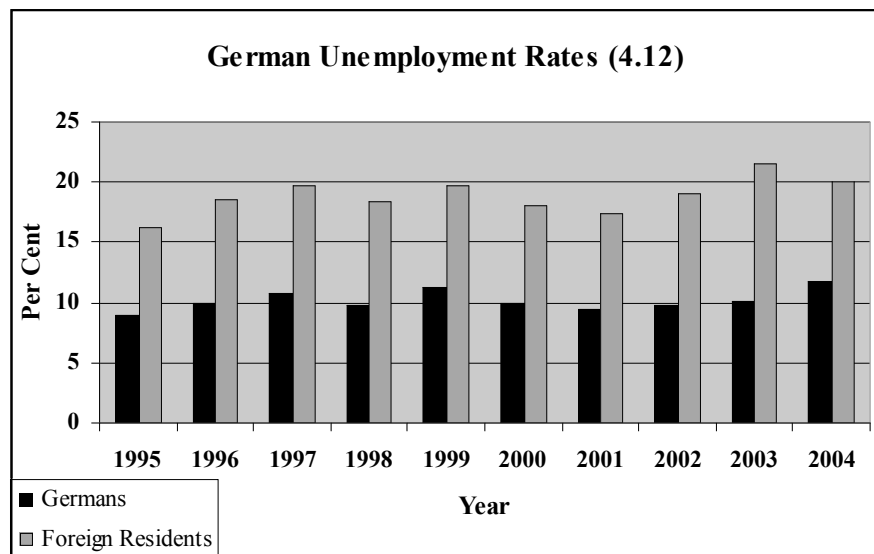
¹⁴ Cyrus, "Active Civic Participation," 14.

¹⁵ Berliner Institut für Vergleichende Sozialforschung, http://www.emz-berlin.de/Statistik_2/de/de_03.htm (accessed January 27, 2007).

prevents integration generally but can also entirely forestall the naturalization process.

Without more equal access to material and immaterial goods, the foreign resident population will inevitably possess fewer resources than their native counterparts, which, in turn, prevents them from acting alongside one another in German society.

Consequently, these figures suggest that the Nationality Act has failed to produce any noticeable economic integration, which, in turn, ensures the maintenance of the native population's relatively stronger economic position.



The relatively weak economic position of the foreign resident population is reflected in the disproportionate dependence of this population on various forms of government transfers. Like unemployment, dependence on such social assistance can both disqualify an individual for naturalization and, more generally, prevent a convergence of the economic positions of the native and foreign populations. As a result, an examination of the rate of dependence of the foreign resident population on social assistance serves as the second indicator of economic integration. At the end of 2003,

617,000 foreign nationals received some form of social assistance.¹⁶ This meant that 8.4 per cent of this population was receiving social assistance, compared to only 2.9 per cent of the German citizen population. Over the years, the amount of foreign residents on the German welfare roles has consistently exceeded their population share and continues to grow.¹⁷ The sizeable presence of foreign nationals in the German welfare system, combined with the disproportionate occurrence of unemployment among this population, has left the foreign resident population in a considerably weaker economic position than German citizens. This weaker economic position, in turn, has both prevented individuals from applying for naturalization and also contributed to the isolation of this population from mainstream German society. As these figures suggest, the Nationality Act has, to date, proved incapable of affecting any economic integration, as the post-2000 years show little improvement in the relative economic position of the foreign resident population.

The foundation of this economic inequality lies in the foreign resident population's infrequent access to various training opportunities, including schooling and vocational instruction. A comparison of the composition of the student bodies of various types of schools provides the opportunity to observe any shifts in the educational opportunities accessed by the foreign resident population. An examination of the enrollment of this population in various training opportunities therefore serves as the third indicator of economic integration. Although variations in the composition of the

¹⁶ Cyrus, "Active Civic Participation," 14.

¹⁷ Regina T. Riphahn, "Immigrant Participation in Social Assistance Programs: Evidence from German Guestworkers," Institute for the Study of Labor (December 21, 2004): 1.

student bodies of various compulsory schools, such as primary schools and grammar schools, does not allow for substantive inferences, the composition of various optional programs, such as evening schools and adult education programs, can prove very enlightening. The data reveal that for almost every optional form of general education, the share of foreign resident participation has decreased (see Chart 4.1). Although the decrease in foreign resident pupils in these optional schools never reached over 5 per cent, the very fact that their presence in these schools is decreasing suggests that their economic position will remain, at best, static. Meanwhile, an examination of the same data for the German citizens reveals the opposite trend. Indeed, German citizen enrollment in every optional school increased over this time period (see Chart 4.2). These optional schools, representing mainly evening schools and adult education programs, are important because they provide the individual with the opportunity to improve their economic position by increasing their level of education. The decrease in foreign resident involvement in these programs, combined with the increase in German citizenship participation, only reinforces the economic divide between these two populations. The persistence of such a stark divide between the economic positions of the two populations not only guarantees the ineligibility of a significant segment of the foreign resident population for naturalization, but it also perpetuates this population's isolation from mainstream society. As a result, these trends suggest that the Nationality Act has had no positive impact on the economic integration of the foreign resident population and, based on these data, that no such process will occur in the near-future.

Schools of General Education- Foreign Pupils by Types of Schools (4.1) ¹⁸					
Type of School	Unit	School Year			Per Cent Change
		2003/04	2004/05	2005/06	
		Absolute			
Pre-Schools	1000	4.6	4.3	1.3	-70.7
School Kindergartens	1000	8.2	7	4.5	-35.1
Primary Schools	1000	369.4	361.4	354.3	-2
General Secondary schools	1000	203.1	203.1	193.6	-4.7
Intermediate Schools	1000	91.1	97.9	99.1	1.2
Grammar Schools	1000	92.8	98.4	101.7	3.3
Evening Secondary Schools	1000	0.5	0.5	0.5	-5.4
Evening Intermediate Schools	1000	5.3	5.5	5.2	-4.3
Evening Grammar Schools	1000	2.8	2.8	2.8	-0.1
Adult Education Colleges	1000	1	1	1	0.8
All School Types	1000	962.8	951.3	929.5	-2.3

Schools of General Education- Pupils by Types of Schools (4.2) ¹⁹					
Type of School	Unit	School Year			
		2003/04	2004/05	2005/06	
		Absolute			Per Cent
Pre-Schools	1000	19.3	18.6	8.2	-55.8
School Kindergartens	1000	34.6	29.4	21.8	-25.8
Primary Schools	1000	3146.9	3149.5	3176.5	0.9
General Secondary schools	1000	1092.5	1084.3	1023.8	-5.6
Intermediate Schools	1000	1296.7	1351.5	1324.7	-2
Grammar Schools	1000	2316.3	2404	2431.3	1.1
Evening Secondary Schools	1000	1.3	1.3	1.4	4.4
Evening Intermediate Schools	1000	19.2	20.8	21.7	4.4
Evening Grammar Schools	1000	19.6	20.5	21.1	3.1
Adult Education Colleges	1000	16.6	17.7	18.3	3.7
All School Types	1000	9727	9624.9	9505.2	-1.2

Similarly, vocational training can provide individuals with the opportunity to strengthen their economic position by acquiring various skills. An examination of the

¹⁸ Federal Statistical Office of Germany <http://www.destatis.de/basis/e/biwiku/schultab9.htm>, January 27, 2007.

¹⁹ Federal Statistical Office of Germany, <http://www.destatis.de/basis/e/biwiku/schultab5.htm>, January 27, 2007.

enrollment figures of the foreign resident population in such vocational opportunities thus acts as the fourth indicator of economic integration. An increase in the enrollment of foreign resident pupils in the years after 2000 would indicate that this population is beginning to obtain the means to increase their economic position. Again, however, the numbers seem to suggest a decrease in foreign resident participation in such programs. A closer examination of the data reveals that the overall decrease in the participation rate of the foreign resident population results from sharp declines in enrollment in certain schools and only moderate increases in others (see Chart 4.3). Indeed, many of the various vocational schools saw increases in the number of enrolled foreign residents. However, the sharp declines in participation in higher-status vocational programs, such as trade and technical schools and specialized academics, more than compensated for the moderate increases in other areas. Meanwhile, the amount of German pupils in these vocational programs increased slightly over this same timeframe. While both populations witnessed negative changes in enrollment for the same vocational institutions, the decrease in the amount of foreign resident pupils was significantly higher than the decrease in the amount of German citizens in every instance (see Chart 4.4). Although German citizen representation in the higher-status vocational programs declined, the rate of change was much less than among the foreign resident population. At the same time, the rate of increase in German citizen representation in these institutions was more moderate than the rate of increase in foreign resident enrollment. While the German citizen population maintained both its absolute and relative predominance in the higher-status vocational schools, the foreign resident population did make relative gains in

several other vocational institutions. Although the foreign resident population may not be making much headway in the more specialized vocational fields, there does appear to be a trend of greater incorporation of this population in most other vocational trades. These figures, at the very least, suggest that the foreign resident population is slowly gaining the resources necessary to strengthen their relative economic position. This, in turn, means both that a larger segment of the foreign resident population will qualify for naturalization and that the economic disparity between native and foreign populations will be moderately reduced. The lack of correlation between these numbers and naturalization figures, however, suggests that this is occurring independent of any process of integration. The Nationality Act has largely failed to induce any process of economic integration and any convergence that has indeed occurred appears entirely unrelated to the increase in access to citizenship produced by the statute.

Vocational Schools- Foreign Pupils by Types of Schools (4.3) ²⁰					
Type of School	Unit	2003/04	2004/05	2005/06	
		Absolute			% Change
Total					
Part-Time Vocational Schools	1000	107.1	101.4	96.2	-5.1
Pre-Vocational Training Year	1000	14	14	13.4	-3.9
Basic Vocational Training Year	1000	5.3	5.2	5.5	6.8
Vocational Extension Schools	1000	0.1	0.1	0.1	2.6
Full-Time Vocational Schools (Berufsfachschluen)	1000	45.7	50	52.1	4.2
Advanced Vocational Schools (Fachoberschulen)	1000	6.7	7	7.5	7.4
Specialized Grammar Schools	1000	5.8	5.9	6.2	5.2
"Berufsoberschulen/Technische Oberschulen"	1000	0.5	0.6	0.7	18.6
Trade and Technical Schools	1000	7	6.6	6.1	-6.9
Specialized Academics	1000	0.7	0.6	0.5	-13
All School Types	1000	192.8	191.4	188.5	-1.5

²⁰ Federal Statistical Office of Germany, <http://www.destatis.de/basis/e/biwiku/schultab11.htm> (accessed January 27, 2007).

Vocational Schools- Pupils by Types of Schools (4.4) ²¹					
Type of School	Unit	2003/04	2004/05	2005/06	% Change
		Absolute			
Total					
Part-Time Vocational Schools	1000	1685.3	16720	1656.3	-0.9
Pre-Vocational Training Year	1000	79.3	80.6	77.7	-3.6
Basic Vocational Training Year	1000	49.2	48.1	50.1	4.3
Vocational Extension Schools	1000	0.7	0.7	0.7	1.9
Full-Time Vocational Schools (Berufsfachschluen)	1000	498.3	541.8	560.7	3.5
Advanced Vocational Schools (Fachoberschulen)	1000	117	121.7	126	3.5
Specialized Grammar Schools	1000	114.5	117.5	121.2	3.2
"Berufsoberschulen/Technische Oberschulen"	1000	13.7	17.5	19	8.4
Trade and Technical Schools	1000	160.1	155.2	151.7	-2.3
Specialized Academics	1000	7.4	7.5	7.4	-1.6
All School Types	1000	2725.5	2762.6	2770.8	0.3

As the data suggest, there is a significant difference between the relative economic positions of the majority and minority populations in Germany. In terms of unemployment, a foreign resident is much more likely than an ethnic German counterpart to be unemployed. As a result, foreign residents receive social assistance at a rate disproportionate with their actual population share. These two straightforward indicators thus suggest that German citizens, on average, enjoy a much stronger economic position than foreign residents. With the Nationality Act only coming into force at the beginning of 2000, however, it is plausible that these reforms simply have not had enough time to affect any economic convergence. In this case, the foundations for such an economic convergence would be clearly visible in the foreign resident population's increased utilization of educational and vocational opportunities. The data, however, do not

²¹ Federal Statistical Office of Germany, <http://www.destatis.de/basis/e/biwiki/schultab8.htm> (accessed January 27, 2007).

support this supposition. Rather, foreign resident enrollment in optional education opportunities, for instance, has actually declined in the post-2000 years, while, at the same time, German citizenship participation in these activities has increased. Similarly, although foreign residents have enrolled in many vocational institutions at an increased rate during this timeframe, the moderate rate of increase prevents any prediction of widespread economic convergence between the majority and minority populations. Since the Nationality Act does not in any way directly promote economic integration, economic integration instead must derive from the Nationality Act's promotion of cultural and political integration. The lack of extensive cultural and political integration suggested by the data thus necessitates a lack of economic integration.

4.5- Concluding Remarks

Ultimately, structural integration derives from the interrelated promotion of cultural, political and economic incorporation. In the context of the Nationality Act, political integration represents the primary impetus of structural integration. The promotion of political integration, however, relies on both the willingness and eligibility of the foreign population. Since the majority of the foreign resident population demonstrate an ability to satisfy the explicit requirements of the Nationality Act and most, if not all, of this population has the will to naturalize and integrate under the right circumstances, this chapter concludes that the incongruity between eligibility and application derives from the implicit cultural demands of the statute. An examination of various cultural indicators reveals that a large segment of the foreign population still identifies strongly with non-German cultures, which, as a result, prevents this population

from satisfying the implicit cultural demands contained in the Nationality Act. In the political realm, the foreign population did exhibit the interest in politics required for substantive political integration. Despite this interest, however, the Nationality Act has, so far, failed to facilitate a deep process of political integration. The liberalized naturalization standards produced by the immigration policy reforms have instead produced superficial political integration, which, in light of the inclination of this population towards passive involvement, appears entirely unsurprising. Similarly, the economic data has revealed that not only has no economic integration occurred in the post-2000 years, but that no such process is likely in the near-future. The failure of the increased access to citizenship produced by the Nationality Act to facilitate integration in these fields stems from the ethnocultural philosophy that informs the statute. Despite the liberalizations produced by the Nationality Act, it is still fundamentally girded by ethnocultural ideology. The power of the statute to induce structural integration is thus inevitably circumscribed by the foreign population's attachment to non-German cultural heritages. Not until the immigration and integration debate in Germany address the outmoded ideology of assimilationism will such naturalization liberalizations prove an effective tool of structural integration.

Chapter 5: Conclusion

5.1- The Aftermath of Rütli

As noted in the introduction to this study, the uncontrollable violence that plagued the Rütli School during the spring of 2006 firmly placed a spotlight on the need for comprehensive integration measures in Germany. Mirroring widespread anti-foreigner sentiments, initial responses to the incident ranged from proposals for increased security in schools with large concentrations of foreign students to demands for harsh penalties for immigrants who failed to learn German. This heated rhetoric, however, soon gave way to reasoned policy proposals. These proposals, informed by the alarming similarity between the Rütli School violence and the riots in France during November of 2005, established the successful inclusion of this population into the German polity as the primary objective of foreigner policies. From mandatory pre-school to wider offerings of German language instruction, these proposals thus focused on the underlying need to integrate the immigrant population into mainstream German society. For the first time, integration, as opposed to assimilation, deportation or simple exclusion, represented the consensus approach to the management of the foreign resident population.¹

With the Nationality Act of 1999 explicitly constructed as a means of addressing the systematic marginalization of the foreign resident community in Germany, events such as Rütli provide emphatic reminders of the failures of these reforms. By liberalizing naturalization standards with the addition of a partial *jus soli* element, policymakers intended to increase access to citizenship and, in turn, officially integrate the foreign

¹ Rose-Anne Claremont, "Integration in Theory, Alienation in Practice," *Der Spiegel Online*, <http://www.spiegel.de/international/0,1518,433006,00.html> (accessed March 30 2007).

population into the German nation-state. Both theoretically and practically, however, this plan was fundamentally flawed. As a result, the Nationality Act failed to produce both the widespread naturalization and the general integration that its drafters had envisioned. Instead, by temporarily satisfying public sentiments for reform, the statute effectively maintained the *status quo*. These disappointing results, however, do not stem from the subtle machinations of racist German politicians; rather, the shortcomings of the Nationality Act ultimately derive from its construction in a post-Marshallian framework and its development from an ethnocultural policy tradition.

5.2- Citizenship as Social Closure

An accurate comprehension of any policy requires a thorough understanding of its historical development. In Germany, for instance, immigration policy has consistently developed from the country's insistence on its non-immigration status. Any significant migration to Germany was thus perceived as unique and temporary phenomenon. As far back the seventeenth century, the various German states instituted these perceptions by systematically excluding immigrants from the state system. Unlike most modern immigration countries, the unique development of the German nation-state proved conducive to the maintenance of this outmoded construction of nationhood. Specifically, the emergence of a German nation prior to a German state necessitated the development of stable markers of membership that did not rely on conventional territorial distinctions. As a result, German citizenship was forced to rely on the only other enduring and prevalent source of substantive distinction, personal characteristics (first with a descent-based system and later with an ethnic citizenship regime). Stemming directly from this

construction of German citizenship, immigrants, by their very nature, were institutionally excluded from official state membership.

German citizenship, by basing acquisition on inherited personal characteristics, therefore acted as the primary vehicle for the exclusion of the immigrant population. As a result of the historical role of state-membership in Germany, current understandings of German citizenship rely on basic post-Marshallian assumptions. Specifically, citizenship in Germany defines inclusivity based primarily on the exclusion of designated minorities. As a result, German citizenship has traditionally acted as both “an instrument and object of social closure.”² The practical means of this exclusion, distinctive personal characteristics, in turn led to the development of an ethnocultural construction of state-membership, as in this context ethnicity and culture provide the only inheritable and discernible distinctions between individuals. The modern German discourse on immigration and citizenship therefore rests on an ideologically charged distinction between citizens and non-citizens in the country.

The Nationality Act then can only be accurately examined within the historical context established by the ethnocultural construction of German nationhood and the attendant post-Marshallian understanding of citizenship in the country. Within this context, German citizenship emerges not as a universally-desirable, civically-constructed marker of formal inclusion into the state polity, but instead it appears as an ethnically-shaped and culturally-potent means of self-identification. As a result, naturalization is not a straightforward transformation of the nature of an individual’s membership status, it

² Rogers Brubaker, *Citizenship and Nationhood in France and Germany*, Cambridge, MA: Harvard University Press, 1992 23.

is instead an implicit conversion to a definitively German way of life. While the Nationality Act unquestionably eases naturalization standards, it ultimately fails to address the heritage of ethnoculturalism that has continued to color the true nature of German citizenship.

This shortcoming has effectively circumscribed the effectuality of the Nationality Act. As Koopmans and Statham have noted, the “inclusiveness/exclusiveness of a national politics for incorporating ethnic difference can be defined along two dimensions of citizenship: first, the criteria for formal access to citizenship and second, the *cultural obligations* that this access to citizenship entails.”³ The Nationality Act effectively addresses the first dimension of citizenship by relaxing many formerly restrictive naturalization requirements. The statute’s failure to address heritage of ethnoculturalism still present in contemporary conceptions of German citizenship, however, effectively maintains the prohibitively high cultural obligations that have traditionally characterized official state-membership in German. The absence of any reconfiguration of German citizenship in the Nationality Act therefore results in the maintenance of volatile ethnic differences in the country.

The quantitative data clearly reflect this dynamic. As a result of the liberalizing of formal citizenship requirements, naturalization rates do indeed spike after the implementation of the Nationality Act on January 1, 2000. Despite the promise of this initial surge in naturalizations, these rates soon fall off to pre-reform levels. Indeed, by 2004, nearly 80 per cent of the seemingly eligible foreign resident population expressed

³ Koopmans and Statham 46 (italics added)

no intention to apply for naturalization. For this overwhelming majority, the data suggests, the implicit cultural demands of the Nationality Act represent prohibitive obstacles to naturalization. The cultural data verify this supposition by revealing the tendency of this population to associate with native cultural identities prior to any adopted German identity. As the result of this dynamic, the Nationality Act has ultimately failed to induce any sustained process of naturalization.

Consequentially, the Nationality Act has fundamentally failed to facilitate the process of structural integration envisioned by its architects. The cultural orientation of the foreign resident population, in the context of the ethnocultural nature of German citizenship, represents the primary deterrent of naturalization. More practical elements, however, also inhibit this process. Specifically (and most importantly), German language ability exerts a determining influence on the integration process. German language proficiency not only increases social interactions with the native German population but it also provides the foreign resident community with an essential instrument of socioeconomic advancement.⁴ As a result, language fluency effectively facilitates the integration the foreign resident population in nearly every subsystem of German society. While the ethnocultural construction of German citizenship represents the primary deterrent of integration, the Nationality Act's lack of any substantive integration measures also contributed to the maintenance of divisive ethnic differences in Germany. Future immigration and integration reforms must therefore strive for both a civic

⁴ Program for International Student Assessment 2000: Overview of the Study: Design, Methods and Results, Organization for Economic Cooperation and Development, 12.

construction of German citizenship and the implementation of pragmatic integration policies if they hope to facilitate a substantive process of integration in the country.

5.3- A New Direction in German Immigration Policy

For the Federal Republic, the initial step in addressing the failure of the Nationality Act is to first recognize it. In 2006, nearly six full years after the enactment of the Nationality Act, the Federal Statistical Office of Germany announced that during the previous year only 117,240 foreign residents naturalized, representing a decrease of nearly eight per cent from 2004.⁵ As the lowest such figure since 1998, policymakers soon began to discuss potential obstacles to naturalization. In this context, Angela Merkel called for an integration summit to be held in Berlin during July of 2006. With German language competency and basic civic knowledge serving as the foundations for integration, the summit developed a fresh approach to integrating the foreign resident population. The national integration plan that emerged from the summit thus focused on the implementation of integration courses, the promotion of language competency, and the encouragement of integration at school and in the workplace.⁶ While this new approach has drawn some criticism from Muslim groups feeling marginalized from the decision-making process, the majority of the feedback has been quite positive.⁷ These practical steps, unlike passive naturalization reforms, represent an essential step in integrating the foreign resident population.

⁵ Federal Statistical Office of Germany, "Naturalizations Continue to Decrease in 2005," July 20, 2006, <http://www.destatis.de/presse/englisch/pm2006/p2950025.htm> (accessed September 20, 2006).

⁶ Federal Ministry of the Interior, "Immigration for the Future: Political Aims," http://www.zuwanderung.de/english/3_polit-ziele.html (accessed April 4, 2007).

⁷ Financial Times Information Limited, "German Muslims Feel Marginalized in Run-Up to Berlin Integration Summit," July 10, 2006 and British Broadcasting Corporation, "German Muslim Spokesperson Satisfied with Integration Summit," July 17, 2006.

5.4- The Future of Integration Policy

The integration of the foreign resident population in Germany is necessary for the preservation of societal stability within the country. Decades of exclusion have produced a population that is unquestionably marginalized and disempowered. As a result, incidents such as the Rütli School violence have dominated media channels and colored popular conceptions of foreigners in Germany. The Nationality Act largely acts as a response to such to such alarming episodes by attempting to more fully integrate the foreign resident population into mainstream German society. As the empirical data in this study suggest, however, this statute has proved largely ineffective in this capacity. Indeed, the Nationality Act has actually maintained the gap between the cultural, political and economic positions of native and foreigners in Germany. Although recent statutes, specifically the Nationality Act, have attempted to modernize citizenship policy by introducing a *jus soli* element, these reformed citizenship policies have been unable to completely escape the influence of Germany's ethnocultural perception of nationhood.

Recently, however, downward-trending naturalization figures have forced policymakers to reexamine the effectuality of these reforms. In this context, German integration policy has begun to shift its focus towards more practical integration measures. The new national integration plan, for instance, emphasizes the development of German language proficiency and the institution of integration courses as the foundation for a successful process of structural integration. Unquestionably, such measures are essential to the successful integration of the foreign resident population. Despite the importance of such practical policies, however, Germany's ethnocultural

legacy necessitates that these efforts be complimented by a fundamental transformation in the way the country perceives its foreign population. This transformation, combined with practical integration measures, will provide the necessary foundations for the creation of both a unified and pluralistic German society.

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